

Sustainability Outlook European Union

January 2022



France takes over the Council Presidency, vowing to implement European Green Deal.

At the turn of the year, France took over the Presidency of the Council of the European Union, following Slovenia's six-month term. In turn, France will be followed by the Czech Republic and Sweden.

France established three high-level ambitions in its programme "[Recovery, Strength and a Sense of Belonging](#)"; including a new European model for growth, in which economic development is aligned with climate goals and that supports innovation and the growth of European digital players and sets its own rules for the digital world. They are meant to be in line with the 2022 [Work Programme](#) of the European Commission for 2022 (and its Annex; please see [Sustainability Outlook October 2021](#)). Regarding **sustainability policy**, the French Presidency says it will continue to "enforce" the [European Green Deal](#). The French Presidency will coordinate work around **four main components**:

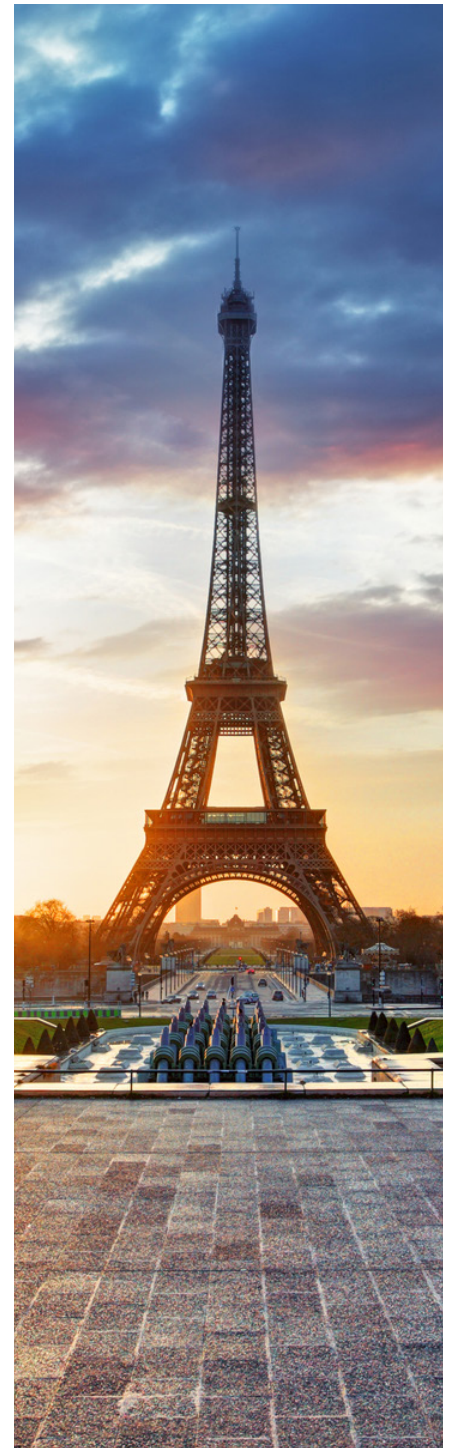
- Accelerating the transition to a **decarbonised economy** to become climate neutral by 2050
- Bolstering measures to preserve **biodiversity**
- Promoting a more **circular** and sustainable **economy**
- Achieving the transition towards a **healthier environment**

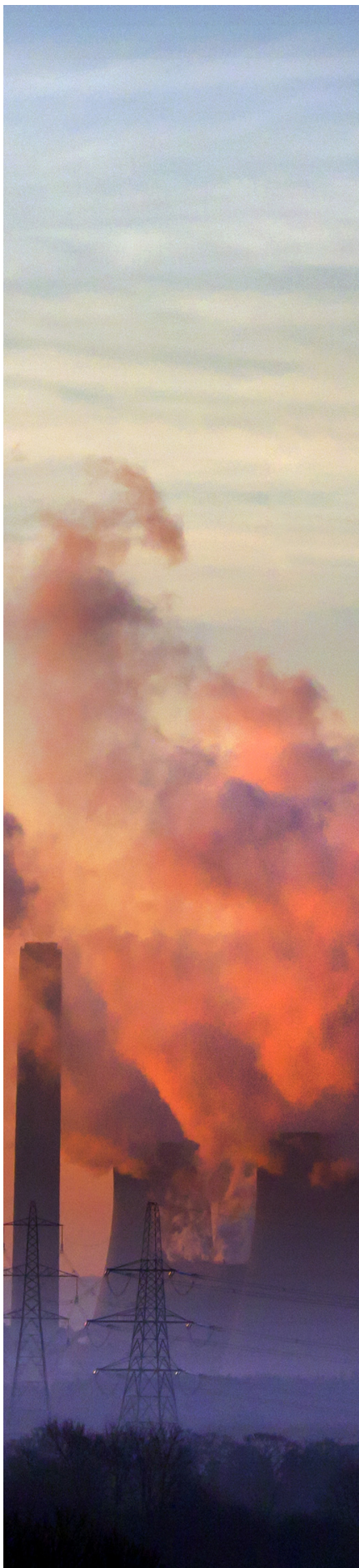
On **decarbonisation**, the Presidency wants further negotiations on the "[Fit for 55](#)" [legislative package](#) (please see [Sustainability Outlook November 2021](#)). Under the heading energy priorities, France states that it is convinced that **nuclear is a critical tool to decarbonise the European industry**, meet emissions reduction targets and strengthen energy sovereignty and independence (please see item below).

Regarding **biodiversity**, France wants to initiate or progress in negotiations for regulations on deforestation-free products (please see [Sustainability Outlook November 2021](#)), among other things.

On the **circular economy**, the Presidency wants to speed up negotiations on the **Batteries Regulation** (please see item below), "continue to examine" the revision of the **Waste Shipments Regulation**, and to begin negotiations on the **Sustainable Products Initiative** (please see [frESH Law Horizons March 2021](#)), among other things.

As part of its work for a **healthier environment**, France wants to better take into account the **fight against endocrine disruptors** in all EU legislation, begin work on the revision of regulations on **ozone-depleting substances** and **fluorinated greenhouse** gases, and continue with amendments to the Regulation on **Persistent Organic Pollutants** (POPs; please see [Sustainability Outlook November 2021](#)), among other things. For more information, please see our [Capital Thinking blog](#).





Draft rules on the sustainability of nuclear and gas cause controversy.

On 1 January, the European Commission [announced](#) that it had shared a draft so-called **Complementary Delegated Act** providing **technical screening criteria** (TSC) for certain nuclear and gas activities with the Member States Expert Group on Sustainable Finance and the Platform on Sustainable Finance. The draft was promptly [leaked](#) and has caused much controversy since.

Taxonomy Regulation 2020/852 provides that **for the purpose of establishing the degree to which an investment in an economic activity is environmentally sustainable**, that economic activity must **(1)** contribute substantially to one or more of six environmental objectives: (i) climate change mitigation; (ii) climate change adaptation; (iii) sustainable use and protection of water and marine resources; (iv) transition to a circular economy; (v) pollution prevention and control; and (vi) protection and restoration of biodiversity and ecosystems; **(2)** not significantly harm any of these objectives (DNSH); **(3)** be carried out in compliance with minimum social safeguards; and **(4)** comply with TSC.

The delegated act with the first TSC for a contribution to climate change mitigation or adaptation entered into force at the start of the year (please see [Sustainable Outlook December 2021](#)), but the Commission intentionally did not address nuclear and gas activities in them but in the Complementary Delegated Act. In the view of the Commission, “there is a role for natural gas and nuclear as a means to facilitate the transition towards a predominantly renewable-based future.” This would mean classifying them as **transitional activities** “under clear and tight conditions,” which entails that there are no technologically and economically feasible low-carbon alternatives, their **emissions** are **below industry average**, and they do not lock Europe into polluting assets incompatible with the objective of climate-neutrality.

The “sustainability” of the **construction and safe operation of new nuclear installations** would require complying with a long list of TSC, such as having a management plan for both non-radioactive and radioactive waste that ensures the maximal reuse or recycling of such waste. Radioactive waste should preferably be disposed of in the Member State where it is generated.

Regarding **electricity generation from gas**, the TSC apply to facilities for which the construction permit is granted by 31 December 2030 and include a limit of **270g CO₂e/kWh**, as well as switching to renewable or low-carbon gases by 2035.

The Commission’s advisory **Platform on Sustainable Finance** [responded](#) negatively to the draft, remarking that the Taxonomy “was not intended to include every activity in the economy.” The **TSC** in the draft differed in fundamental ways from those that are already in-force and were **inconsistent** with the provisions of the **Taxonomy Regulation**. The TSC for existing and new **nuclear plants did not ensure** that **no significant harm** is done to the sustainable use of water and marine resources, the transition to a circular economy, pollution prevention and control, or the protection and restoration of biodiversity and ecosystems. The TSC for new nuclear plants did not ensure a **substantial contribution to the 2050 climate neutrality goal**. Regarding gas-fired energy facilities, only a 100g CO₂e/kWh limit (which is one of multiple options according to the draft) ensured a substantial contribution to climate change mitigation.

France, the Czech Republic, Poland and at least 10 other Member States are said to generally support the direction of the Complementary Delegated Act, whereas Austria, Germany, Luxembourg, Spain and others have voiced opposition. Nevertheless, the Commission is expected to adopt the Complementary Delegated Act [with minimal changes](#) on 2 February. After the Commission adopts it, the Council and European Parliament have four months to object (which they can extend to six months). If neither institution objects with the requisite majority, the Complementary Delegated Act will enter into force.

European Parliament Rapporteur proposes substantial changes to the ETS.

The [draft report](#) of the Committee for Environment, Public Health and Food Safety (ENVI) suggests some substantial amendments to the proposal on a revised **EU Emissions Trading System (ETS)** Directive that the Commission presented in July 2021 as part of the [Fit for 55 Package](#).

It stresses that the Parliament has repeatedly called on all sectors of the economy to contribute to the GHG emission reduction targets. To reach climate neutrality, **municipal waste incineration installations should be covered by the ETS** in the long-term. Furthermore, the Rapporteur proposes the introduction of a new possibility for **negative accounting for bio-energy with carbon capture and storage (BECCS)** and direct air capture – in addition to the **existing exemption for carbon capture and storage (CCS)** and the **proposed exemption for carbon capture and utilisation (CCU)** that permanently binds carbon in a product. With the proposed amendments, the new ETS would also **cover other fuels released for consumption**, such as those used for process heat in smaller installations, to ensure a level playing field, close gaps between the existing and new ETS, and simplify administration for fuel distributors. A temporary **Carbon Leakage Protection Reserve** would be linked to an annual review mechanism to assess the entry into force and effective implementation of the Carbon Border Adjustment Mechanism (CBAM). Free allocation allowances, which would be no longer provided to the CBAM sectors, would be moved into that reserve each year.

ENVI is the Committee responsible for [the file](#). The Development (DEVE), Budgets (BUDG), Industry, Research and Energy (ITRE), Transport and Tourism (TRAN) Committees are expected to issue opinions that will feed into ENVI's final report. The Plenary of the Parliament will adopt its negotiation position based on that report, before the Council and Parliament negotiate and adopt the final directive.

European Commission starts revision of waste rules.

The European Commission [published](#) a call for evidence for an impact assessment of the revision of the Waste Framework Directive 2008/98 (WFD). The Commission aims at improving waste management by **reducing waste generation** and **mixed waste**, as well as improving **separate waste collection**, among other things. The policy options that the Commission intends to consider will include:

- Promoting the full implementation of the provisions on waste prevention, preparation for re-use and recycling
- Introducing overall and/or product-specific **prevention measures**, including **targets on waste reduction**, clarifying and/or restricting derogations from separate collection, and **minimum requirements** for source segregation and separate collection of waste
- Expanding extended producer responsibility (**EPR**) schemes to additional products categories (e.g. **textiles, oils**) and improve enforcement of EPR requirements for products sold online

The WFD was most recently amended in 2018 as part of the EU Circular Economy Package (please see [frESH June 2018](#)). The Commission has pursued infringement procedures against many Member States, as they have failed to bring their national legislation in line with the amended WFD (please see [Sustainability Outlook June 2021](#)).

The call for evidence is [open until February 22](#). The Commission plans a public consultation for Q2 2022 and to adopt a legislative proposal in Q2 2023.





European Commission opens public consultation on bioplastics.

The Commission launched a [public consultation](#) on a policy framework for bio-based, biodegradable and compostable plastics (BBP and BDCP), following its roadmap from October 2021 (please see [Sustainability Outlook October 2021](#)). The public asks about certain policy measures regarding **labelling, minimum EU sustainability requirements, limiting the use of biodegradable plastics** in the open environment to products that are difficult to collect, and **limiting the use of compostable plastics** to products that are difficult to separate from food waste.

The [survey](#) is open until 15 March 2022. The Commission [currently plans](#) to adopt this initiative by means of a (non-legislative) communication on 30 July as part of its second “Circular Economy package” in 2022.

Member States approve rules on reducing the consumption of single-use plastic products.

The Member States represented in the Commission Committee on Waste delivered a positive opinion on the [draft implementing decision](#) on the **calculation, verification and reporting** of the reduction in the consumption of single-use plastic food containers and beverage cups. Pursuant to the [Single-use Plastics Directive 2019/904](#) (SUPD), all Member States must take measures to this end, and the Commission was supposed to adopt this implementing act by January 2021.

The draft decision provides a wide margin of discretion to Member States when calculating consumption reduction, based on (a) the **number of single-use plastic items** placed on the market; or (b) the **total weight of plastic** contained in those products. In the latter case, Member States must also report the *total* weight of the products partly made of plastic.

Member States must report specific **measures to achieve the consumption reduction** for each of the single-use plastic products: cups for beverages, including covers and lids, and food containers. The Commission provides an open list of possible measures, such as **levies**, extended producer responsibility (**EPR**) for producers of beverage cups, **restrictions** on placing on the market, restrictions on making available in certain locations and use restrictions when serving consumers.

As stated in the [summary record](#) of the Committee meeting in November 2021 (which the Commission made available recently), the Commission proposed these methods “in order to find a consensus.” However, some Member States raised concerns over **consistency and comparability of the reporting data**, as well as the **risk of a fragmentation of the internal market**. The Commission explained “how a **conversion factor** could help to compare data from the Member States reporting in items or reporting in weight.” Yet, the draft that received a positive opinion does not provide specific and clear rules on how the conversion factor would apply. In the end, 19 Member States [voted](#) in favour, four against and four abstained. The Commission is expected to adopt the implementing decision in the coming weeks.

As criticised by some Member States, the flexibility that the draft implementing decision grants them could contribute to economic operators facing diverging conditions across the European market. Arguably, the **options provided** to Member States allow for, but make it less attractive to focus consumption reduction on **paper/cardboard products that contain only a little plastic**.

European Commission consults on right to repair.

The Commission [launched](#) a call for evidence and a public consultation on its so-called “right to repair” initiative. The Commission had foreseen this initiative in its [European Green Deal](#) and [Circular Economy Action Plan \(CEAP 2.0\)](#). It aims to encourage consumers to make more sustainable choices by providing incentives and tools to use goods for a longer time, including repairing defective goods. It will also encourage producers to design goods that last longer and are easily repairable. The initiative intends to create synergies with the **Sustainable Products Initiative** (please see [frESH Law Horizons March 2021](#)) and the initiative on **empowering consumers in the green transition**.

The Commission considers policy options with different degrees of intervention, such as an amendment of the **Sales of Goods Directive 2019/771** and a separate new legislative proposal. The amendment could include **extending the legal guarantee periods** for new goods that consumers choose to repair instead of replacing, for second-hand or refurbished goods or generally for all products beyond the current minimum period of two years (which became applicable as of January 2021). The amended Directive may also **make repair the preferred remedy** when it is not more expensive than replacement or enable the seller to replace defective products with refurbished goods and not new ones. The new legislative instrument could oblige producers or sellers to repair products beyond the legal guarantee period for a reasonable price or, in some cases, for free.

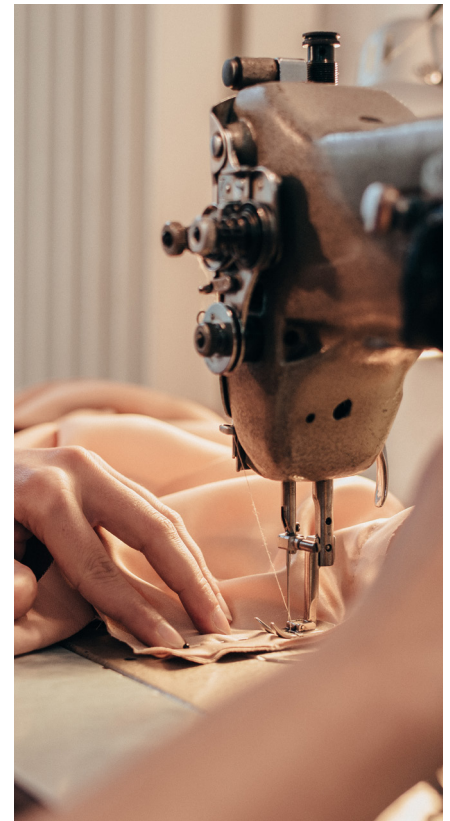
Both the feedback period of the call for evidence and the [consultation](#) period end on 5 April 2022. The Commission is expected to present a proposal for a **directive** in Q3 2022.

Council discusses proposal for Batteries Regulation.

In December 2020, the European Commission [proposed a Batteries Regulation](#), which would repeal a current Directive (please see [frESH Law Horizon April 2018](#)), following an [Inception Impact Assessment](#) presented in April 2020. The Commission’s stated aim is to address the **environmental and health risks due to use of hazardous substances** in batteries, the **GHG emissions associated with their manufacturing**, the **use of resources in the production** and the **responsible sourcing of materials**. The proposal covers both **industrial and rechargeable batteries**, and imposes rules on their carbon footprint and recycled content. Electric vehicle batteries and rechargeable industrial batteries with internal storage and a capacity above 2kWh would have to be accompanied by technical documentation that includes a carbon footprint declaration.

In a “steering note” for a meeting of the Council Working Party on the Environment (WPE), which was leaked to media (not publically available), the French Council Presidency laid out key points to be discussed. In particular, the following aspects would need to be clarified: scope of the different provisions, whether to include batteries **for light means of transportation**, **dates of application of the regulation**, some of the **definitions** (including of batteries and their different categories, economic operators and operations), and the concepts of remanufacturing and repurposing.

The note also provides some guidance on the principles that should govern the **restriction of substances in batteries**, given that some Member States would prefer a **dedicated procedure for substances** in batteries, whereas **others prefer a reference to the REACH provisions**. In the Presidency’s view, a substance-specific article on restriction should be included in the Batteries regulation.





European Commission consults on REACH revision.

The Commission launched an [open consultation on the revision of REACH](#). Commissioner for the Environment, Sinkevičius, [remarked](#) that the ambition of our [European Green Deal](#) is a truly toxic-free environment, and that the revision of REACH will deliver on this ambition. The stated objective of the revision is to ensure that REACH reflects the ambitions of the Commission on innovation and a high level of protection of health and the environment, while preserving the internal market, as provided for in the [Chemicals Strategy for Sustainability](#).

The measures that the Commission consults upon are broadly in line with the Commission's [Inception Impact Assessment](#) (please see [frESH Law Horizons May 2021](#)). They include changes to the **registration** requirements, the introduction of **a Mixture Assessment Factor (MAF)**, simplification of the **communication throughout the supply chain**, as well as **changes to the authorisation and restriction processes**. Questions on information requirements in the survey cover **critical hazards, endocrine disruption, polymers** and the **environmental footprint**, as well as **use and exposure**. Questions on the introduction of a MAF refer to studies showing that **"unintentional" co-exposure** to substances can lead to adverse effects on people and the environment. Exposures at concentrations that are regarded as safe for individual substances (i.e. where no effects are expected) can still result in adverse (eco)toxicological effects when humans or other organisms are exposed to an "unintentional" mixture. The 2020 [Commission's progress report on Chemical Mixtures](#) addresses these issues and provides real-world examples. On **authorisation and restriction**, the survey addresses the inclusion of the concept of **essential use**.

European Commission discusses details of its proposed right of initiative to classify chemicals.

In December, the European Commission [laid out](#) options regarding the introduction of a **right of initiative to propose** Harmonised Classification and Labelling (CLH) **under the** Classification, Labelling and Packaging (CLP) Regulation 1272/2008 in the context of the [Chemicals Strategy for Sustainability](#). The Commission intends to address shortcomings identified in its 2019 Fitness Check of the most relevant chemicals legislation (excluding REACH): the slow pace of the CLH processes; Member States' limited capacity to prepare CLH dossiers; and the uneven spread of workload between Member States. In view of the European Chemicals Agency's (ECHA) substance screening and discussions in the informal Risk Management and Evaluation Platform (RIME+), ECHA should regularly draw up and publish a list of substances (or group of substances) that warrant a harmonised classification as part of a new prioritisation mechanism. The Commission would then discuss the list with Member States Competent Authorities (e.g. in RIME+). The Commission should have the option to mandate ECHA to develop a CLH dossier only when no Competent Authority volunteers to do so. Upon such mandate, ECHA would then prepare the dossier and start the public consultation. From this step, the process would follow the existing procedure (Art. 37 CLP). That procedure includes in particular ECHA's Committee for Risk Assessment (RAC) adopting an opinion within 18 months. The Commission notes that both the prioritisation mechanism and its right of initiative would not apply to substances covered by Plant Protection Products Regulation 1107/2009 (PPPR) on pesticides and Biocidal Products Regulation 528/2012 (BPR), which already put in place a mechanism for aligning the processes for hazard identification according to CLP and the sectoral risk assessment.

ECHA warns about deadline for so-called NONS notifications.

The European Chemicals Agency (ECHA) [reminded](#) companies that still want to claim registration numbers after a **Notification of New Substances (NONS)** under the Dangerous Substances Directive 67/548, one of the predecessors of REACH, to do so [before 17 July 2022](#). After this, ECHA will no longer provide registration numbers for NONS and mark the not-claimed registration numbers in ECHA's database and on ECHA's website as no longer valid.

ECHA was tasked with assigning registration numbers to all the notifications by December 2008. It has done so by creating 9,963 registration numbers for 5,294 substances. However, the second step has been a confirmatory "claiming" of the registration numbers by the notification owners, establishing a link between a registration and the company responsible for it.

Companies that wish to claim their registration number will also **have to update their registration dossiers** afterwards. The information necessary for updating such registration is listed in Annex 4 of the ECHA manual "[How to prepare registration and PPORD dossiers](#)".

There is a distinction depending on whether the substance was notified in quantity below 1 tonne or above 1 tonne:

- **For NONS notified below 1 tonne** and for which no tonnage band update has been done, a separate notification to the Classification and Labelling Inventory will have to be made. Thus, the registration does not need to be updated.
- **For NONS notified above 1 tonne**, if only a classification and labelling update needs to be provided and the tonnage band remains unaltered, the minimum information requirements as explained in Annex 4 of the manual need to be provided.

ECHA proposes restriction of PFAS in firefighting foams.

The European Chemicals Agency (ECHA) [submitted a proposal to restrict](#) the use of per- and polyfluoroalkyl substances (PFAS) in fire-fighting foams. The Commission had requested that ECHA develop such an Annex XV restriction dossier.

The stated reason for the restriction includes that PFAS are widely used in various consumer and industrial products (e.g. water- and stain repellent textiles, fire-fighting foams, food contact materials and cosmetics). They are of increasing concern as many are likely to be persistent in the environment, while some are also known to be mobile, toxic and bioaccumulative. For many PFAS currently in use, there is a lack of detailed knowledge on their chemical structures, properties, uses and toxicological profiles. A recent study commissioned by the Commission and ECHA show that fluorine-free fire-fighting foams are generally available and technically feasible and have been successfully used in most of the sectors identified. Fluorinated fire-fighting foams are the cause of many cases of contamination in Europe, both of soil and drinking water. The inclusion of PFOA, its salts and PFOA related compounds in Annex I of the POPs Regulation, following the listing under the Stockholm Convention, will lead, in the next five years, to the substitution of fire-fighting foams containing these substances.

ECHA is expected to "pre-publish" the restriction **dossier on 23 February 2022**. ECHA's scientific Committees for Risk (RAC) and Socio-Economic Analysis (SEAC) will evaluate it, which includes a public consultation. Their opinion will then form the basis for the decision of the European Commission on the proposed restriction.

In parallel, Germany, Denmark, the Netherlands, Norway and Sweden [registered their intention](#) to propose a **broad restriction** of the manufacture, placing on the market and use of PFAS (that contain at least one aliphatic carbon atom that is both saturated and fully fluorinated; please see [Sustainability Outlook July 2021](#)).





US and EU discuss measures on PFAS at OECD event.

The Organisation for Economic Co-operation and Development (OECD) organised a [webinar](#) to present recent risk reduction initiatives for Per- and Polyfluoroalkyl Substances (PFAS). It featured presentations from the US Environmental Protection Agency (EPA), the European Commission and the Secretariat of the Basel, Rotterdam and Stockholm Convention. The **EPA** focused on the roadmap developed by the US PFAS Council, which builds on current EPA actions. In general, the approach of the EPA revolves around life cycle considerations, the polluter pays principle, science-based decision-making and the prioritisation of protecting disadvantaged communities. The EPA is currently working on ensuring a robust review process for new PFAS and plans to review existing PFAS under the Toxic Substances Control Act (TSCA) in summer 2022, as well as to finalise new PFAS reporting in winter 2022.

The presentation of the **European Commission** representative focused on key policy instruments, including the [European Green Deal](#), Zero Pollution Action Plan, Soil Strategy and the PFAS Action Plan under the [Chemicals Strategy for Sustainability](#) (CSS). Under the CSS, the Commission intends to address the use of and contamination with PFAS and to ban all PFAS in fire-fighting foams. ECHA submitted the dossier to restrict all PFAS in fire-fighting foams in January, while a broad restriction of other uses of PFAS is currently being prepared by the Netherlands, Germany, Denmark, Sweden, and Norway (please see [Sustainability Outlook July 2021](#)).

European Commission announces new rules for large combustion plants.

The Commission [announced](#) that it has [published](#) Implementing Decision 2021/2326 establishing best available techniques (BAT) conclusions for large combustion plants (LCP) in the Official Journal. The draft Implementing Decision had received a positive opinion by the Member States in the Committee on the Industrial Emissions Directive 2010/75 (IED) last year (please see [Sustainability Outlook November 2020](#)). This Decision replaces Implementing Decision 2017/1442, which the EU court annulled on application by Poland (Case [T-699/17](#); appeal pending, Case C-207/21). The **BAT conclusions** provided in the Annex to the Decision set the reference for permit conditions for LCP under the IED. The Commission stressed that they remain **identical in content to the annulled Decision**. The Commission said it intends to ensure continuity in the implementation as well as clarity and legal certainty for Member States and operators. This meant that no LCP may have operated without permits granted under the IED and based on BATs since August 2021.

European Court of Justice holds that WEEE Directive is partially invalid.

The European Court of Justice (ECJ) [announced](#) a preliminary ruling, i.e. a decision on reference from a national court, regarding the Waste Electrical and Electronic Equipment (**WEEE**) Directive 2012/19 (Case [C-181/20](#)). It ruled that manufacturers of photovoltaic (PV) panels placed on the EU market **before the entry into force** of the WEEE Directive in August 2012 cannot be obliged to finance the waste management costs arising from those panels. The WEEE Directive provides for extended producer responsibility (EPR), making producers responsible for the costs of the collection, treatment, recovery, and environmentally sound disposal of WEEE resulting from **products placed on the market after 13 August 2005**.

The ECJ confirms that the **waste management costs** regarding equipment placed on the market since the entry into force of the WEEE Directive must be borne by the **producers**, and not, as the Czech legislation that gave rise to the original case provides, their users. However, the ECJ notes that before the entry into force of the WEEE Directive, Member States could place the obligation to finance waste management costs on users or manufacturers. Therefore, “a new legal rule which applies to previously established situations cannot be regarded as complying with the **principle of the non-retroactivity of legal acts** [...]”. For that reason, the ECJ declared **Article 13(1) of the WEEE Directive invalid** insofar as it imposes on **producers** the **obligation** to finance the costs relating to the management of waste from photovoltaic panels placed on the market **between 13 August 2005 and the entry into force of the WEEE Directive**.

The ECJ also ruled that Czech law, which introduced domestic rules on waste management costs for photovoltaic panels one month before the WEEE Directive was adopted, did not breach EU Law.

France plans to regulate greenwashing regarding carbon neutrality.

The French government has [published](#) and [notified](#) a draft decree on advertising **claims** regarding **carbon offsetting** and carbon neutrality to the Commission. The recent French Climate Law empowers the government to adopt a decree implementing a framework of requirements and methods of communication for the advertising of products and services presented as carbon neutral, in order to **ensure transparency** and prevent any risk of **greenwashing**.

The scope of the decree covers all advertising aimed at individuals, including in printed and audio-visual media, as well as on packaging. Under the decree, carbon neutrality claims have to be based on a **greenhouse gas** (GHG) **emission balance sheet** covering the entire life cycle of the product or service (following requirements of standard **NF EN ISO 14067** or equivalent), updated annually. The advertiser must also update annually and publish online a summary report of the balance sheet with the target path for reducing GHG emissions associated with the product or service, as well as the arrangements for offsetting residual emissions. Emission reductions from **GHG offset projects** claimed by the advertiser must have a measurable, verifiable, permanent and additional character. These projects must not be detrimental to the preservation and restoration of natural ecosystems.

The draft decree is open for public [consultation](#) at national level until 10 February 2022. At the EU-level, the standstill period during which France may not adopt it currently ends on 29 March 2022.

The Commission recently presented a communication on sustainable carbon cycles (please see [Sustainable Outlook December 2021](#)) which confirms that it will develop an EU legislative proposal on the certification of carbon removals. Aiming to tackle greenwashing, the Commission is also expected to adopt a proposal strengthening the role of consumers in the green transition at the end of March.





European Commission criticises Italian implementation of Single-use Plastics Directive.

The Commission [issued a detailed opinion](#) to Italy on its transposition of the [Single-use Plastics Directive 2019/904](#) (SUPD; please see [Sustainability Outlook September 2021](#)). [Reportedly](#), the main objections raised by the Commission are that the Italian law exempts from its scope **plastic coatings** with a weight of less than 10% of the total weight of the product, whereas the SUPD does not provide a minimum plastic content threshold in its definition of plastic products. Similarly, the Italian law exempts **biodegradable and compostable plastic** under certain conditions. The Commission also criticised the introduction of a **tax credit of 20%** for companies that **purchase or use single-use plastic products** that are produced with biodegradable and compostable plastic but are subject to consumption reduction and prohibited under SUPD. However, the Commission concedes that Italy has some flexibility regarding the focus of its consumption reduction measures “provided that the general reduction objective is achieved and the principles of proportionality and non-discrimination are respected”. Finally, the Commission points out that the Italian decree entered into force before the end of the standstill period pursuant to the Single Market Transparency (TRIS) Directive 2015/1535. Based on its observations that Italy has violated the SUPD as well as EU law, the Commission could start an infringement procedure against the country. That procedure could eventually lead to the European Court of Justice imposing coercive and/or punitive fines against Italy.

Italian Budget Law for 2022 confirms postponement of plastic tax.

The [2022 Italian Budget Law](#) confirmed that Italy has postponed the application of its national tax on single-use plastic products for the fourth time until (at least) **1 January 2023** (please see [Sustainability Outlook October 2021](#)). Italy adopted that tax in 2019. It would tax the products within its scope with €0.45/kg. Recycled plastic, as well as compostable plastic products, and products used to contain or protect medical preparations and certain medical devices would be exempted.

If you are interested in UK as well as EU environment, safety and health law, procedure and policy, please take a look at our [frESH blog](#).

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