

INFORMATION BULLETIN

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INTERNAL MARKET

Digital Policy

Cybersecurity

The work on the European institutions on the [Cyber Resilience Act \(CRA\)](#) is progressing

In the Parliament, the Committee responsible will be ITRE, and the Rapporteur will be Nicola Danti (RE, Italy).

The designated Shadow Rapporteurs are Henna Virkunnen (EPP, Finland), Beatrice Covassi (S&D, Italy), Ignazio Corrao (Greens/EFA, Italy), Evzen Tosenovsky (ECR, Czechia).

IMCO and LIBE were appointed as Committees for opinion.

The ITRE Committee aims at publishing its draft report in March. This would mean that the vote in plenary might occur in June or July and that trilogues could start after the summer.



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Digital Markets Act

The [Digital Markets Act](#) was published in the Official Journal of the EU on 12 October 2022. This means that the legislation entered into force on 1 November 2022 (20 days after publication) and the notification and review process by which the European Commission will designate companies as 'gatekeepers' will start on 1 May 2023.



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Construction Products Regulation (CPR)

The [draft report](#) of the European Parliament IMCO Rapporteur, Christian Doleschal (EPP, Germany) on the CPR proposal was published on 14 November 2022. The Rapporteur proposed amendments aiming to reduce administrative burdens and delete provisions that presented a real risk of regulatory overreach. He also stated that the revised CPR should continue to apply to the sale of construction products but not to service contracts with contractors. Furthermore, he made suggestions to reduce the current backlog of standards, such as streamlining the standardisation procedure by introducing clear response deadlines and better communication methods between the Commission and CEN/CENELEC. The Rapporteur was not in favour of bypassing the standardisation process via the adoption of delegated acts, as it would cause severe delays in the creation and adoption of new harmonised technical specifications. Finally, he pointed out the need for a clear division between the competences of the EU and of the Member States, a shorter transition period, an increased use of digitalisation and a clear definition of the database for construction products.

During an exchange of views in the Internal Market and Consumer Protection (IMCO) Committee on 29 November, MEPs also agreed with the need for a shorter transition period and stated that delegated acts from the Commission should be set out under exceptional circumstances only. They highlighted the role of public procurement and underlined the need to reduce burdens for SMEs.

Following this meeting, the [IMCO amendments](#) were issued on 20 December. The other two opinion committees (Environment, Public Health and Food Safety (ENVI) and Industry, Research and Energy (ITRE) also proposed amendments which were published on 12 December ([ITRE](#)) and 3 November ([ENVI](#)).

In terms of next steps in the Parliament, the consideration of amendments is foreseen to take place in an IMCO meeting in January 2023, after which compromise amendments will be prepared in February. The IMCO vote is scheduled for 27 March. The votes in the ENVI and ITRE committees are scheduled for 9 February and 9 March respectively.

As far as the Council developments are concerned, the latest Working Party on Technical Harmonisation meeting took place on 13 December, to discuss the text of the Presidency proposal (notably on Technical Assessment Bodies (TABs) and Article 31 – Double use and pseudo products). The next meeting is scheduled to take place on 13 January, focusing on the following issues: the overall structure of the Commission proposal, the concept of direct installation, the setting of mandatory standards (Article 4), and the Regulation's transitional structure (Articles 92-93).



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Issues of General Interest

Digital Policy

2030 Digital Compass

The Decision establishing the [Digital Decade Policy Programme 2030](#) was adopted by the European Parliament on 24 November and by the Council on 8 December.

The Decision sets out:

- digital targets for the EU to be reached by the year 2030
- the requirement for Member States to submit national digital decade strategic roadmaps by 9 October 2023
- a legal basis for multi-country projects to facilitate achieving the digital targets.

The text was published in the Official Journal of the European Union on 19 December, meaning that the Decision officially entered into force on 8 January 2023. It is directly binding on Member States without transposition into national law.



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Revision of the Directive on Security of Network and Information Systems (NIS Directive)

On 10 November, the European Parliament adopted the [revised Network and Information Systems Directive \(NIS 2\)](#). After almost three weeks, on 28 November, the NIS 2 was also adopted by the Council.

The revised Directive replaces the current [Directive on Security of Network and Information Systems \(NIS Directive\)](#), aiming to set out baseline cybersecurity risk management measures and reporting obligations across sectors covered by the Directive, such as energy, transport, health and digital infrastructure.

As such, the NIS 2 Directive sets out:

- minimum rules for a regulatory framework
- cooperation mechanisms among relevant authorities in each Member State

- the updated list of sectors and activities subject to cybersecurity obligations and measures to improve their enforcement.

On 27 December, the revised Network and Information Systems Directive (NIS 2) was published in the Official Journal of the EU. Therefore, the Directive will enter into force on 16 January 2023. Member States must now adopt and publish the measures necessary to comply with NIS 2 by 17 October 2024, and thereafter inform the Commission. These measures will apply from 18 October 2024.



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Digital Services Act

On 27 October 2022, the Digital Services Act was published in the Official Journal of the EU.

The text officially entered into force on 17 November 2022 (20 days after publication). Most rules will be applicable after 15 months from the entry into force of the text, on 17 February 2024.



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Machinery Directive (MD)

The third and last trilogue meeting on the Machinery Regulation proposal took place on 15 December 2022, during which the European Parliament and Council negotiators struck a provisional deal. More details can be found [here](#) and [here](#). They agreed on sensitive political issues such as the content of Article 5 and Annex I on what are known as 'high-risk' machinery products. In short, the co-legislators found a compromise whereby machinery products should be listed in part A (subject to third party conformity assessment) and part B (allowing the manufacturer's self-assessment/module A) of Annex I. Only six machinery categories are now included in part A.

The Parliament and the Council also strengthened Article 5 whereby the Commission will be able to update the list of machinery products in Annex I, after careful assessment and consultations with relevant stakeholders. One important achievement for the industry, as part of the provisional agreement, is the uptake of

digital documentation instead of exclusively paper-based solutions. In other words, digital instructions will be the default option. Paper instructions will remain optional at the moment of purchase for customers who have no access to the digital version. Only basic safety information will have to be provided with every machinery product. The duration of the implementation period is currently set at 42 months after the entry into force of the regulation.

In terms of the next procedural steps, the provisional agreement has to be formally approved by the Parliament (first with a vote in the responsible committee and then in the plenary) and the Council (Committee of Permanent Representatives - COREPER) before the official publication of the regulation.



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ATEX Directive

The Commission has recently published the [Fourth edition of the ATEX 2014/34/EU guidelines](#). In this new version, most changes consist of corrections of editorial errors and updates to the harmonised standards' references.



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New Legislative Framework (NLF)

On 15 November 2022, the European Commission published its [Staff Working Document](#) and the [executive summary](#), on the evaluation of the New Legislative Framework (NLF), following the publication of the external evaluation study (carried out by Centre for Strategy & Evaluation Services - CSES) in May 2022.

On the whole, the Commission reflects the conclusions of the evaluation study in its Staff Working Document, by pointing out that the NLF has greatly contributed to achieving its four objectives, namely: 1) Reinforcing the New Approach; 2) Supporting the consistency and coherence of EU harmonisation legislation; 3) Strengthening the conformity assessment system; 4) Enhancing the clarity and credibility of the CE marking.

The NLF is therefore broadly fit for purpose when it comes to the criteria of effectiveness, efficiency, relevance, coherence, and EU-added value. Some

shortcomings have been however identified in terms of relevance, due to the question of whether the current framework can sufficiently adapt to current and future trends related to digitalisation, circular economy concepts (including remanufacturing, substantial modification etc.), complex value chains, and other similar challenges.

As a result, the Commission concluded that it may carry out an impact assessment on a possible revision of the NLF, to specifically address such new trends. For instance, the impact assessment could explore the following options: introducing a new NLF module targeted at products subject to substantial modification following their placing on the market/putting into service; formalising the use of digital documentation across NLF-aligned legislation through different tools such as digital instructions, a digital CE marking and a digital product passport (which could include an electronic Declaration of Conformity and the description of the conformity assessment procedure used).



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Standardisation Policy

The [Regulation \(EU\) 2022/2480](#) amending Regulation (EU) No 1025/2012 (targeted amendment of Article 10) was published on 19 December 2022 in the European Union Official Journal (L 323/1). As a reminder, the proposal for a targeted amendment of the Standardisation Regulation 1025/2012 was part of the package of initiatives within the Standardisation Strategy, as a core deliverable to improve the governance of the EU standardisation system. The amendment to Article 10 is intended to ensure that only representatives of the national standardisation bodies within the competent decision-making body will be taking decisions on European standards. The amending Regulation will apply as from 9 July 2023.



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MARKET ACCESS

meeting on
November

Issues of General Interest

Regulation on Prohibiting products made with forced labour

On 14 September, the European Commission published a legislative proposal for a Regulation prohibiting products made with forced labour on the EU market. The text of the legislative proposal can be found [here](#).

The proposal focuses on products (produced in the EU and imported), irrespective of the size and sector of the company that places them on, or exports them from, the EU market and the country of origin of the product. The proposal imposes an obligation on economic operators not to make available on the EU market, or export from the EU market, products made with forced labour.

This act was [open for feedback](#) until 30 November 2022. All feedback received was summarised by the Commission and presented to the European Parliament and Council to feed into the legislative debate. The European Parliament Committee responsible for the file will be Committee on the Internal Market and Consumer Protection (IMCO), the Rapporteur is Maria-Manuel Leitão-Marques (S&D, Portugal) and the Shadow Rapporteur is Anne-Sophie Pelletier (The Left, France). The Committees for Opinion are the Committee on Foreign Affairs (AFET), of which the Rapporteur is Salima Yenbou (RE, France), the Committee on Employment and Social Affairs (EMPL); the Committee on International Trade (INTA) and on Legal Affairs (JURI).

In the coming weeks, further Rapporteurs and Shadow Rapporteurs will be appointed.



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Foreign subsidies distorting the internal market

Further to the publication of a [proposal for a Regulation on foreign subsidies distorting the internal market](#), the legislative process is ongoing.

The EU institutions reached a [provisional political agreement](#) on 30 June 2022, deciding to maintain the notification thresholds proposed by the Commission for mergers and public procurement procedures, which are €500 million for mergers and €250 million for public procurement procedures. Moreover, they established that the European Commission would investigate subsidies granted up to five years before the entry into force of the regulation which result in a distortion of the internal market. The Commission will also be exclusively competent to enforce the regulation. Moreover, the co-legislators decided that the Commission will have to issue guidelines on how it assesses the distortive nature of foreign subsidies and judges a subsidy's market-distorting effect against its potential benefits. The co-legislators also confirmed that companies could consult the Commission to verify if they need to disclose the subsidies received.

After being adopted by the European Parliament Plenary on 9 November and approved by the Council on 28 November, the legislative act was adopted. On 23 December 2022 it was [published](#) in the Official Journal of the European Union, entering into force on the 20th day following its publication.



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Free Trade Agreements – overview

Country	Current Status	Next steps
Singapore	Trade and investment agreements were adopted in October 2018. On 21 November 2019, the Free Trade Agreement entered into force.	Investment Protection Agreement to be ratified by all the Member States before entering into force. See here for more information.
Vietnam	The Free Trade Agreement entered into force on 1 August 2020. The Commission has	See here for more information.

	updated its Guidance on the Rules of Origin .	
Mercosur	Ongoing negotiations for a free trade agreement. In June 2019, the EU and Mercosur reached a political agreement .	The Commission has published the agreement in principle and its texts though these are not fully final yet.
China	Ongoing negotiations for an Investment Agreement. Agreement in principle was reached on 30 December 2020.	The text of the agreement is being finalised and will need to be legally reviewed before submission for approval to the EU Council and the European Parliament. More information: here .
Australia	Ongoing negotiations for a Free Trade Agreement. The 13 th round of negotiations took place in October. On 21 October 2022, the framework agreement between the EU and Australia entered into force.	The negotiations for a Free Trade Agreement are ongoing. Please see further information: here .
New Zealand	On 30 June 2022, the EU and New Zealand concluded negotiations for a Trade Agreement . The text of the agreement can be found here .	Once the European Parliament has given its consent, and once the agreement has been ratified by New Zealand, it can then enter into force. Click here for more information.
Indonesia	Ongoing negotiations for a Free Trade Agreement. The 12 th round of negotiations took place in October 2022.	The negotiations for a Free Trade Agreement are ongoing. See further information: here
Tunisia	Ongoing negotiations for a Free Trade Agreement. The 4 th round of negotiations took place on 28-30 April/1-2 May 2019 in Tunis.	Negotiations are at a standstill due to the change of government in Tunisia and civil society protests. See here for more information.
Chile	On 9 December 2022, the EU and Chile concluded negotiations on the EU-Chile Advanced Framework Agreement. This modernised EU-Chile agreement will be	As a first step, both the EU and Chile will proceed with the legal verification of the agreement. Following that, the EU will propose the Advanced Framework Agreement and the

	composed of two legal instruments: the Advanced Framework Agreement and an Interim Free Trade Agreement.	FTA for conclusion and ratification.
ESA (Eastern and Southern Africa countries: Comoros, Madagascar, Mauritius, Seychelles, and Zimbabwe)	Ongoing negotiations to deepen the existing Economic Partnership Agreement (EPA). The 9th round of negotiations took place in September.	See here for more information.
India	On 25 April 2022, the EU and India launched the EU-India Trade and Technology Council . On 17 June 2022, the EU and India formally relaunched negotiations on a Free Trade Agreement, an investment protection agreement, and geographical indications.	See here for more information.



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ENVIRONMENT

RoHS2 Directive

Renewal of exemptions

Further to the series of renewal requests submitted by the industry in January 2020, the European Commission has contracted external consultants, namely Oeko-Institut together with Fraunhofer IZM, to perform the technical assessment. The assessment of 16 requests for 9 RoHS exemptions started in December: it is named [RoHS project \('Pack 22'\)](#). The study covers lead related exemptions 6(a)/6(a)-I, 6(b)/6(b)-I, 6(b)-II, 6(c), 7(a), 7(c)-I and 7(c)-II (Annex III). The [stakeholder consultation](#) ran until 3 March 2021 and the final [technical study report](#) was published in January 2022. For more details, please see the [Technical specifications](#) and the [Project Description](#).

Recently, the Commission, highlighted Pack 22 as of high importance for industry and a top priority, but said that in light of staffing constraints, no date can be given yet. A first draft is to be discussed internally in the Commission this year, followed by a consultation next year.

For more information:

[Technical specifications](#)

[Project Description](#)

RoHS General Review

The [public consultation on the RoHS review](#) was open until 16 June 2022. The purpose was to collect information and views from stakeholders on how the RoHS Directive could be improved in order to maintain its relevance and increase its efficiency. The [evaluation of the Directive](#) flagged the following as potential areas for improvement:

- the exemption process;

- the process of reviewing the list of restricted substances;
- the alignment of RoHS with other EU legislative frameworks (e.g. the more horizontal Regulation on chemicals, REACH) and the [European Green Deal](#) objectives, and in particular the Circular Economy Action Plan ([CEAP](#)), the [Chemicals Strategy for Sustainability](#), the [Zero Pollution Action Plan](#), and the [Sustainable Products Initiative](#).

The revision of RoHS was scheduled for Q4 2022, but it was postponed. The RoHS revision is likely to be published after the completion of the REACH revision to ensure consistency and coherence between RoHS and REACH. This also means that RoHS will not be integrated into REACH.



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Circular Economy Policy

Ecodesign for Sustainable Products Regulation

In the past quarter, the European Parliament Committees responsible for providing opinions on the [Ecodesign for Sustainable Products Regulation](#) (ESPR) proposal have published their first draft reports with amendments to the European Commission's text.

You can access them via the following links:

- [Committee on the Environment, Public Health and Food Safety \(ENVI\)](#)
- Committee on Industry, Research and Energy (ITRE): [1](#) and [2](#)
- Committee on the Internal Market and Consumer Protection (IMCO): [1](#), [2](#), [3](#)

Indicatively, the three Committees are expected to vote on their final proposals on 5 June, 28 March and 24 April 2023.

Furthermore, on 12 December, the previous Czech Presidency also discussed their compromise amendments, which although not currently publicly available, are known to be to generally in line with the Commission's proposal. The current Swedish Presidency will work hard on the ESPR, but their position (General Approach) is expected to be ready either in May, or under the next Spanish Presidency.

Furthermore, you can find below some additional timelines and milestones regarding the ESPR and the Digital Product Passport (DPP):

- January 2023: the Commission will launch an open consultation on the categories of products to be selected under the first ESPR Working Plan
- March 2024: end of the EU funded project [CIRPASS](#), on which the DPP will be predominately based
- End of 2024-early 2025: adoption of the first ESPR Delegated Acts
- 2026 - 2027: first products regulated at EU level with a mandatory DPP.



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Empowering the consumer for the green transition

On 24 November 2022 , the leading European Parliament Internal Market and Consumer Protection Committee (IMCO) on the '[Empowering the consumer for the green transition](#)' proposal, published their [second batch](#) of draft amendments.

As a reminder, the first batch was already discussed in September and is available [here](#).

With regard to the Committee on the Environment, Public Health and Food Safety (ENVI), which provides an opinion on the proposal, their draft amendments are available [here](#) and [here](#).

Here are the next milestones of the legislative process:

- IMCO Committee:
 - Debate: 23 January 2023
 - Debate: 1 March 2023
 - Vote: 27 March 2023
- ENVI Committee
 - Vote: 23 January 2023
- Council of the EU:
 - Presentation of the Council's compromise proposals: 11 January 2023
 - General Approach: 2 March 2023



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Waste Framework Directive

Waste Framework review

The revision of the Directive aims to improve waste management in line with the waste hierarchy. The key aims of the revision are to decrease waste generation, improve separate waste collection to yield optimal recycling results (including by avoiding contamination of recyclable waste), and increase the amounts of waste oils collected and treated in line with the waste hierarchy. The [call for evidence](#) was launched on 25 January and was open until 22 February 2022 and a [public consultation](#) was open until 16 August 2022. The European Commission's legislative proposal is expected for Q2 2023 – however, it is worth mentioning that this proposal was not included in the [Commission Work Programme 2023](#).

By contrast, in the programme, the revision of food waste and textiles aspects of the WFD is indicated for the second quarter of 2023. Concerning the first aspect, the Commission wants to focus on legally binding reduction targets defined against a baseline for EU food waste levels set following the first EU-wide monitoring of food waste levels. The textiles aspect applies the polluter-pays principle and introduces obligations through the extended producer responsibility system. "In 2023, we will take action to reduce waste and the environmental impact of waste, with a focus on food and textile waste. We will also act to improve textile recycling and ensure that producers bear greater responsibility for waste treatment", the Commission said in its Communication.

In an open [letter](#) sent to European Commissioner for Environment, Oceans and Fisheries Virginijus Sinkevičius on 2 November 10 MEPs and 47 NGOs called for urgent action in order to tackle the waste crisis. "We call for EU policies to match the European Green Deal's ambitions and narrative. Intending to achieve carbon neutrality and circularity by 2050, the current rate of 8.6% circularity, calculated by the 2022 Circularity Gap Report, is unacceptable and outright dangerous for Europe's future," the letter reads. In October, the EU Executive presented its Work Programme for 2023, which indicates a revision of the food waste and textile aspects of WFD, excluding the other parts of this framework legislation.

SCIP Database (previously ECHA Waste Database)

As background, the European Chemicals Agency (ECHA) eventually launched the [SCIP database](#) on 28 October 2020, and suppliers have been obliged to submit SCIP notifications since 5 January 2021. 'SCIP' is the database for information on

Substances of Concern In articles as such or complex objects (products) established under the Waste Framework Directive.

From 7 November 2022, companies from Iceland, Liechtenstein and Norway can submit notifications on their products containing substances of very high concern to ECHA. The obligation to submit notifications to [ECHA's database of substances of concern in products \(SCIP\)](#) has also been extended to cover companies supplying articles in the European Economic Area (EEA): Iceland, Liechtenstein and Norway. From 7 November, the database will be ready to receive their notifications. This change comes as the amendment to the Waste Framework Directive has been incorporated into the EEA Agreement. For EU countries, the duty to submit SCIP notifications started in January 2021.. SCIP is the EU's first public database of products with substances of very high concern. It was established under the Waste Framework Directive. The database enables consumers to make more informed purchasing choices and helps waste operators to further develop the re-use of articles and the recycling of materials.



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Eco-Management and Audit Scheme

On 25 October 2022, the Eco-Management and Audit Scheme (EMAS) Helpdesk hosted a webinar, presenting their new EMAS Communication Toolkit and sharing the experience of four companies from different Member States, including a discussion about EMAS campaigns on social media. The objective was to highlight the importance of effectively communicating information about EMAS and to demonstrate how even organisations with little experience in communication can easily improve their strategies. More information on the webinar summary can be found [here](#) and the Communication Toolkit can be downloaded [here](#).



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Issues of General Interest

REACH

REACH review

As background, the [Chemicals Strategy for Sustainability](#), adopted by the European Commission on 14 October 2020, recognised the need for a targeted revision of the REACH legislation. It is worth mentioning that the REACH Regulation was [last evaluated in 2018](#), when the conclusion was that REACH is effective but that there are opportunities for further improvement, simplification, and a reduction in administrative requirements.

Therefore, the REACH revision proposal was scheduled for Q4 2022, and the Commission was expected to present it as part of its second circular economy action plan, but it was then postponed to 2023. On 16 November, the EU's Regulatory Scrutiny Board greenlighted the Commission's draft impact assessment for the REACH reforms, allowing the EU Executive to proceed with drafting a full legislative proposal. The move could pave the way for the Commission to publish its proposal earlier in 2023, and not in the final quarter of next year, as foreseen in its [Work Programme for 2023](#), published in October. The main elements of this impact assessment are the lack of information on certain hazards; the complexity of the authorisation and restriction process and insufficient enforcement.

For further information on the REACH Review, click [here](#).

Substances of Very High Concern (SVHC)

A new intention to identify a substance of very high concern has been received for:

[1,1'-\[ethane-1,2-diylbisoxyl\]bis\[2,4,6-tribromobenzene\]](#) (EC 253-692-3, CAS 37853-59-1). The substance is not registered under REACH.

For further information: [Registry of SVHC intentions until outcome](#).

Restriction

New restriction proposals

ECHA has recently published restriction proposals for the following substances:

- [4,4'-isopropylidenediphenol \(bisphenol A\)](#) as well as other bisphenols and bisphenol derivatives with endocrine-disrupting properties for the environment, prepared by Germany;
- [creosote and related substances](#) prepared by France.

The proposals will be evaluated by ECHA's scientific Committees for Risk Assessment (RAC) and Socio-Economic Analysis (SEAC). Consultations will be opened after the committees agree that the proposals conform with the legal requirements for a REACH restriction proposal.

All restrictions under REACH are decided by the European Commission together with the EU Member States. The toxic chemical, which can affect the hormone system, is commonly used in manufacturing plastics. The proposal suggests restricting the use of all bisphenols already identified as endocrine disruptors in the environment under EU chemicals legislation or under the World Health Organisation's criteria. This so-called "group approach" aims to avoid a situation where manufacturers replace restricted substances with others of a "high structural similarity." Such substances should "not be placed on the market in mixtures and articles" above a concentration of 0.001% of a product's weight. There are several exemptions on concentration limits for paper recycling, leather products and the manufacture of polycarbonates, among other uses.

Updates on Restriction Proposal for MOCA

The European Chemicals Agency (ECHA) launched a call for evidence on a possible restriction proposal for [4,4'-methylenebis\[2-chloroaniline\] \(MOCA\)](#), which ended in **mid-November**. MOCA is on the REACH Authorisation List and ECHA has screened its uses and their risks in products (articles) as required by Article 6g(2). ECHA is seeking further information to see whether a restriction proposal needs to be prepared to control the risks to people from this carcinogen, which has no safe level of exposure.

Investigation report on polyvinyl chloride

As well as this, ECHA also launched a call for evidence on the Investigation report on polyvinyl chloride and its additives. More precisely, ECHA is looking for information on **polyvinyl chloride (PVC) and its additives** related to:

- uses;
- EU volumes per use sector and end-use;
- end-of-life information per use;

- experimental/measured release and exposure information.

This information will be used for the investigation report on PVC and its additives that the European Commission has asked ECHA to prepare.

For further information:

[Current calls for comments and evidence](#)

[Current activities on restrictions](#)

Authorisation

Chromium trioxide

ECHA is looking for comments on 12 applications for authorisation covering 18 uses of **chromium trioxide** (EC 215-607-8, CAS 1333-82-0) used in functional chrome plating, functional chrome plating with decorative character, surface treatment of aluminium alloys, and etching of plastics. The deadline is **11 January 2023**.

For further information:

[Applications for authorisation - current consultations](#)

Decision of the Court of Justice on the authorisation of certain uses of chromium trioxide

On 27 October the Advocate General of the Court of Justice of the European Union [reached a conclusion](#) in the case between the European Parliament and the European Commission on the latter's [Implementing Decision of 18 December 2020](#), which partially granted an authorisation for certain uses of chromium trioxide (a substance classified as being of very high concern by the REACH regulation) that "the requirements relating to the burden of proof cannot depend on the scope of the application for authorisation, in the sense that they can be regarded as less stringent where the application relates to a large number of uses and therefore of sites and undertakings potentially affected by those uses."

The Advocate General therefore concluded that the Court should annul the EC authorisation decision, while maintaining its effects until it had issued a new decision.

ECHA's new report on REACH Authorisation

ECHA has recently published a new **report** that illustrates that those volumes of chemicals subject to authorisation had dropped by 45% in a decade. ECHA's new [report](#) takes a more in depth look at the substances of very high concern (SVHCs) for

which companies applied for authorisation during 2010-2021. In 2021 the combined volume of these substances placed on the EU market was 45% less than it was in 2010. For example, the production and import of five phthalates (BBP, DBP, DIBP, DEHP and diisopentyl phthalates) and trichloroethylene are estimated to have decreased by more than 90% in roughly a decade. These findings support earlier conclusions made in the [2021 report](#): REACH authorisation cuts SVHC uses.

Per-and polyfluoroalkyl PFA

On 24 October in the Environment Council, the Belgian delegation [presented](#) information on findings, obstacles and opportunities in the management of PFAS pollution. The Belgian delegation had previously provided the Council with a background [note](#) focused mainly on the issue of PFAS contamination in the Flemish Region.

A group of 46 NGOs, including the European Environmental Bureau (EEB) and ChemTrust, have committed to a newly created [Manifesto](#) with the aim to ban PFAS. The signatories urge EU decision-makers to act immediately and enforce an all-encompassing prohibition on the manufacture and use of PFAS.



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REACH and Nanomaterials

The European nanomaterial market is expected to grow. The [latest study](#) by the European Union Observatory for Nanomaterials (EUON) predicts that the European nanomaterial market will grow in volume and value between 2021–2025. The study provides a list of nanomaterials currently on the market and identifies key market operators.



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EU Ecolabel

Proposal for a Directive to empower consumers for the green transition

As a reminder, this proposal was included as a priority in the [2023 Work Programme](#) of the European Commission published on 12 October 2022.

The European Parliament and Council are reviewing the proposal to develop their own positions before the trilogue discussions start later this year.

In the Council, the Swedish Presidency will present a third compromise text to the Working Party on Consumer Protection and Information, with a view to reaching a General Approach for the negotiating position on 2 March 2023 in the Competitiveness Council. In the last Competitiveness Council where a second compromise text was presented on 7 December, delegations welcomed the well-balanced document but agreed that further discussion was necessary, as a recent interpretation by the Court of Justice on pre-contractual information on commercial guarantees would lead to some changes to the proposal.

In the European Parliament, the lead Committee on Internal Market and Consumer Protection (IMCO) is expected to hold two debates on 23 January and 1 March 2023, with a view to a vote on the [draft report](#) on 27 March 2023. The Environment Committee is expected to vote on its [draft opinion](#) on 23 January 2023.



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Green Public Procurement

GPP in the new Ecodesign for Sustainable Products Regulation

As a reminder, the proposal for a new Ecodesign for Sustainable Products Regulation ([2022/0095](#)), the ESPR, will enable mandatory GPP criteria to be set in delegated acts for public contracting authorities.

In the European Parliament, the lead Environment Committee published its [draft report](#) on 9 December with no amendments to the Commission's proposal on

mandatory GPP criteria. The ENVI Committee is expected to consider the draft report and submit amendments until 17 January and to vote on 5 June 2023.

In addition, the Committee on Industry, Research and Energy (ITRE) published its [draft opinion](#) on 9 November, with the [latest amendments](#) requiring all Member States to comply with the mandatory GPP criteria & targets set in the delegated acts. The ITRE Committee aims to vote on its draft opinion on 28 March 2023.

In the Council, the Competitiveness Council (Internal Market, Industry, Research and Space) aims to reach a General Approach (GA) on 22 May 2023.



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Environmental Footprint

PEF/OEF method webinar

Initially expected for adoption as part of the [Circular Economy Package II](#) on 30 November 2022, the Proposal for a Regulation on substantiating environmental claims using the Product/Organisation Environmental Footprint methods (green claims initiative) was delayed until 2023.



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Environmental Technology Verification (ETV)

As of November 2022, and following an internal assessment, the European Commission has taken the [decision](#) to discontinue its work on the ETV programme. This means that the programme will not be run nor supported by the Commission. The protocols that were developed will, however, remain available for use by stakeholders.



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ENERGY

Renewable Energy Directive

Renewable Energy Directive

On 19 December, the Energy Council reached a [General Approach](#) on amendments to the Renewable Energy Directive (RED), proposed under the REPowerEU plan.

As regards “renewable go-to areas,” the Council of the EU agreed that that permit-granting processes should not last longer than one year for renewables projects, and two years for offshore renewables projects. For areas outside “renewable go-to areas,” permitting procedures should not exceed two years. Ministers also agreed on the target of at least 40% of the share of energy from renewable sources in 2030 in the EU’s gross final consumption (REPowerEU proposed 45%).

However, not all Member States agreed upon the lower target. Following the Energy Council meeting, a group of Member States (Austria, Denmark, Estonia, Germany, Greece, Luxembourg, Portugal, and Spain) issued a joint declaration supporting the 45% renewable target. Significantly, they called for higher ambition during the trilogue negotiations on the RED.

The European Parliament voted on the file on 13 December, setting more ambitious permitting targets than the Council of the EU.

In terms of next steps, the co-legislators will now be able to factor their positions into the ongoing negotiations on the RED.



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Energy Efficiency

Energy Efficiency Directive

On 22 November, the second trilogue discussion took place on the Energy Efficiency Directive recast. The ITRE Committee Rapporteur reported back to the Committee on the negotiations, highlighting the following points:

- Despite a constructive discussion there is still a long way to go
- At this second trilogue three articles were on the table
 - Article 3 on the energy efficiency first principle
 - Article 4 on the energy target. This was the main target that the Directive set out for energy efficiency
 - Article 8 on the energy saving obligations
- Progress was made on discussions around Article 3. There was a position from the Council on the threshold for which projects were to be covered by the energy efficiency first principles which went further both the Parliament and Commission positions.
- There were constructive discussions on how the threshold would decrease in the Council position so that they could meet in the middle. There will be further discussion on this at the next meeting.
- On Articles 4 and 8, they were still exploring different solutions moving forward. The main issue was that the Council's level of ambition was 9% when it came to the 2030 energy efficiency target while the Parliament favored 14.5%.
- The Parliament wanted a binding target for the Member States, and the Council was reluctant to introduce such a target. On this point, they will look at the options in the coming weeks to try to find common ground. The Commission proposed a 13% target in RePowerEU, and this is the basis for the discussion.
- On Article 8, Parliament had a target of 2% energy savings per year and the Council wanted a lower target of 1.5%.
- There was a large majority in Parliament for the Parliament's position. There seems to be good cooperation with the shadow rapporteurs.

The third trilogue took place on 14 December and negotiators should report back in early Q1 2023 on the latest discussions.



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Energy Performance of Buildings (EPBD)

The vote on the EP ITRE (Industry, Transport, Research and Energy) Committee's position on the [EPBD](#) will take place on 23 January 2023, instead of 26 November 2022 as initially planned. This resulted in the deadline for amendments in the ITRE Committee being moved to 10 January 2023.

In the meantime, the opinions of the [ENVI](#) (Environment) and [JURI](#) (Legal Affairs) Committees were adopted respectively on 7 and 27 October 2022. On the other hand, due to internal splits, the TRAN (Transport) Committee's opinion was rejected in their internal vote.

The changes in ITRE have led to the timing on the final vote in the European Parliament Plenary being delayed until 1 February 2023.

On the side of the EU Council, its General Approach was adopted on 25 October 2022.

The trilogue negotiations between the European Parliament and the EU Council are expected to begin in February 2023.



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Energy Labelling Regulation

The European Commission announced that it will hold an Ecodesign and Energy Labelling Consultation Forum meeting on the EPREL database in early March 2023 in a hybrid form.

It will be officially confirmed once meeting invitations are distributed to the members of the Consultation Forum.



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Ecodesign Directive

Ecodesign Working Plan 2022-2024

The European Commission distributed its 2023 work programme of the Ecodesign and Energy Labelling Consultation Forum, which additionally shows some indicative timings on product measures that are planned to be adopted beyond 2023.

It includes the planned adoption dates of all ongoing Ecodesign measures including several new product groups (tyres, photovoltaic modules, inverters and systems, mobile phones and tablets, imaging equipment, low temperature emitters (radiators, convectors, etc), professional laundry appliances, professional dishwashers & electric vehicle chargers). The Commission will share information in January regarding its planning for meetings in 2023.

Please note that this is the current Ecodesign and Energy Labelling Consultation Forum and not yet the future new Ecodesign Forum to be established under the Ecodesign for Sustainable Products Regulation (ESPR).

- **Market Surveillance**

On 5 December 2022, the European Commission held a Consultation Forum meeting about Market Surveillance. The most important challenges ahead of the Commission remain as follows:

- Lack of resources from Market Surveillance Authorities
- Insufficient coordination across sectors (e.g. products' sustainability and safety)
- Lack of cooperation with consumer groups
- High levels of non-compliance online
- Current enforcement mechanism does not provide the right incentives to comply



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Ecodesign Directive - Update on Lots / implementing measures

ENTR Lot 1: Professional refrigeration: On 28 November, the European Commission held a Consultation Forum on the revision of the Ecodesign & Energy

Labelling regulations on Professional Refrigeration Products. Prior to this, the Commission distributed its draft proposal for a revised regulation.

Furthermore, on 20 and 21 December the consultants from VHK published their second interim report, their updated technical note on storage cabinets, reference lines and thresholds, and their updated paper on scientific and healthcare refrigerated storage cabinets – all of which are available [here](#).



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DECARBONISATION & CLIMATE CHANGE

F-gases

Negotiations in the European Parliament and the EU Council are ongoing on the [proposal for a revision of the F-gas Regulation](#).

As a consequence of the number of amendments tabled in the European Parliament Environment Committee (ENVI) and the pace of negotiations, the legislative process for the proposal is delayed. The vote in the Committee for Industry, Transport, Research and Energy (ITRE), initially planned for 5 December, will take place on 23 January, whereas the ENVI Committee vote is postponed to 1 March and the plenary vote to April 2023 (at the earliest).

The EU Council published a [note](#) on the progress made following the eight meetings of the Working Party on the Environment which were dedicated to the F-gas proposal under the Czech Presidency. Many Member States expressed support for the idea of extending the subject matter of the Regulation to include natural refrigerants, since they are the main alternative substances and their safe and efficient use needs to be ensured.

The discussion showed that, while the proposed timeline for the phase-down of hydrofluorocarbons (HFCs) is considered too ambitious by several Member States, a larger group of Member States is against lowering the overall level of ambition of the European Commission's proposal. Further discussion will be necessary on other key elements of the proposal, such as the timeline for restrictions on the placing on the market of certain products and equipment and the introduction and level of a price for quotas for HFCs.

Discussions on the proposal, which was on the agenda of the Environment Council on 20 December, will continue under the Swedish Presidency which started in January 2023.



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National Energy and Climate Plans

On 15 November, the Commission published its [Draft Commission Notice](#) on the Guidance to Member States for the update of the 2021-2030 national energy and climate plans (NECPs).

The Commission includes key elements to consider for the update of the NECPs such as:

- Member States are encouraged to reflect progress and planning on the infrastructure projects that are identified as significant to meet the European Green Deal & REPowerEU goals; and
- Member States should investigate investment incentives in flexibility, (smart) grids, digital enabling solutions for the electricity grids, and firm capacity.

The draft Commission Notice on the Guidance to Member States for the update of the 2021-2030 NECPs will be formally adopted by the Commission at a later date, when all language versions are available. It is only from that moment that the Notice will be applicable.



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Ozone Depleting Substances

In the context of the ongoing discussions on the [proposal for a revision of the Regulation on Ozone Depleting Substances \(ODS\)](#) in the European Parliament, the [amendments](#) tabled in the Committee for Environment (ENVI) are available. The ENVI Committee will adopt the report on 1 March 2023.

The EU Council published a [note](#) on the review of the F-gas and ODS Regulations, as these two regulation revisions are linked and should be considered together.

As regards the ODS Regulation, a first examination of the proposal focused on those provisions which are not identical to those in the F-gas proposal, and a detailed examination of the entire ozone proposal also took place. The main parallel provisions will be negotiated further in the context of the F-gas proposal and work on the ozone proposal will continue during the next Presidency, closely following the F-gas proposal in terms of timing.

The proposal was also discussed at the Environment Council on 20 December.



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Issues of General Interest

Sustainable finance

On 28 November, the Platform on Sustainable Finance [published](#) its second set of recommendations for economic activities that can be labelled as sustainable under the EU Taxonomy framework. This is the last deliverable of the Platform under its current mandate which ended in October 2022.

In addition, on 19 December the European Commission published two sets of FAQs to help companies apply the EU Taxonomy. The FAQs on Climate Criteria can be found [here](#), and the FAQs on Reporting Rules can be found [here](#).



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Revision of EU Emissions Trading Scheme

On 17 December, the European Parliament and the Council [agreed](#) to reform the Emissions Trading System to further reduce industrial emissions and invest more in climate friendly technologies. The agreement includes, inter alia, the following:

- Emissions in the ETS sectors must be cut by 62% by 2030, compared to 2005, with a one-off reduction to the EU-wide quantity of allowances of 90 Mt Co₂ equivalents in 2024 and 27 Mt in 2026 in combination with an annual reduction of allowances by 4.3% from 2024-27 and 4.4% from 2028-30.
- Free allowances to industries in the ETS will be phased out as follows:
 - 2026: 2.5%, 2027: 5%, 2028: 10%, 2029: 22.5%, 2030: 48.5%, 2031: 61%, 2032: 73.5%, 2033: 86%, 2034: 100%.
- The Carbon Border Adjustment Mechanism (CBAM) will be phased in at the same speed that the free allowances in the ETS will be phased out. The CBAM will therefore start in 2026 and be fully phased in by 2034.

- By 2025, the Commission will assess the risk of carbon leakage for goods produced in the EU intended for export to non-EU countries and, if needed, present a WTO-compliant legislative proposal to address this risk. In addition, an estimated 47.5 million allowances will be used to raise new and additional financing to address any risk of export-related carbon leakage.
- By 2027: An ETS II for buildings and transport will be established by 2027. However, it could be postponed until 2028 to protect citizens if energy prices are exceptionally high.
- The ETS will be extended to maritime transport. You can read more on this part of the agreement [here](#).
- Market Stability Reserve: 24% of all ETS allowances will be placed in the market stability reserve to address possible imbalances between the supply of, and demand for, allowances in the market due to external shocks such as those caused by COVID-19.
- Waste: From 2024, EU countries must measure, report, and verify emissions from municipal waste incineration installations.
- By 31 January 2026, the Commission will present a report with the aim of including such installations in the EU ETS from 2028 with a possible opt-out until 2030 at the latest.
- In addition, there will be the following financing made available for innovative technologies and to modernise the energy system:
 - The Innovation Fund will be increased from the current 450 to 575 million allowances.
 - The Modernisation Fund will be increased by auctioning an additional 2.5% of allowances that will support EU countries with GDP per capita below 75% of the EU average.
 - All national revenues from auctioning ETS allowances shall be spent on climate related activities.
 - MEPs and Council also agreed to establish a Social Climate Fund for the most vulnerable.

In terms of next steps, Parliament and Council will have to formally approve the agreement before the new law can come into force.



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PUBLICATIONS & EVENTS

Author	Date	Title
European Parliament	18 November 2022	Briefing - European Commission work programme for 2023
European Parliament	7 December 2022	Study - E-commerce and the EU Green Deal - Analysis of the environmental footprint of online sales in the context of the circular economy
European Parliament	9 December 2022	Briefing - Revision of the Construction Products Regulation
European Parliament	9 December 2022	Briefing - Single Market Emergency Instrument
European Parliament	January 2023	Briefing - Priority dossiers under the Swedish EU Council Presidency

EVENTS

Organiser	Date	Name & Location
European Chemicals Agency	15 February 2023	Authorisation for uses of chromium(VI) substances: online information session
European Circular Economy Stakeholder Platform	16 January 2023	The Taxonomy and Sustainable Finance: What does it mean for the Buildings & Infrastructure sector?
EUROBAT	18-20 January 2023	Battery Forum Deutschland 2023
POLITICO	20 January 2023	POLITICO Pro Workshop – The EU’s circular economy plan and European industry
EuRIC	31 January 2023	E-WASTE: A VALUABLE RESOURCE FOR THE EUROPEAN CIRCULAR ECONOMY
EURACTIV	31 January 2023	MERCOSUR TRADE AGREEMENT - WILL 2023 BE THE YEAR IT IS FINALLY RATIFIED?
ENISA	7 February 2023	Cybersecurity Standardisation Conference 2023
Euractiv	8 February 2023	EU Energy transition - What role for critical raw materials?

European Chemicals
Agency

15 February 2023

[Authorisation for uses of
chromium\(VI\) substances:
online information session](#)

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