Global Circular Economy Regulatory Framework

WWF-Pakistan
Global Circular Economy
Regulatory Framework
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Businesses and consumers alike are increasingly demanding social and environmental responsibility in the value chains of products. Industries such as textile, agriculture, and mining suffer from human and social rights issues such as forced labour, child labour, unfair wage systems, land grabbing and occupational health and safety issues. Clearly, the linear economy is wasteful, unsustainable and coupled with environmental degradation.

Consequently, companies that undermine social and environmental compliance in their value chain are vulnerable to reputational damage, legal fines, occupational risks for their workers and ultimately business closure. Most importantly, the European Union (EU) Commission wants to ensure that products marketed in the EU, whether produced domestically or from outside, comply with acceptable environmental and social standards. The vision of the EU is to become the first climate-neutral region by 2050. In addition, the EU endeavours to transition EU member states into a circular and fair economy.

Now, the question is, how can industries, governments and other stakeholders see themselves as part of the EU vision? Moreover, how can companies and other industry players stay vigilant with increasingly strict international laws?

The WWF-Pakistan commissioned the Consulting Service International Limited to organize a workshop for stakeholders in Pakistan on the Global Economy Regulatory Framework. The workshop equipped stakeholders with the latest information on existing and new international regulations aimed at promoting circular businesses as well as environment and social due diligence in supply chains.

The brochure was prepared based on the content of the workshop with information on the context of the international legislation, benefits, the scope of application and implications for companies.
The European Commission adopted a proposal for a Directive on Corporate Sustainability Due Diligence on 23 February, 2022.

The goal of the Directive is to ensure that businesses in the EU address social, human rights and environmental impacts of their activities in their whole value chain whether within and outside the EU. Equally, the German Due Diligence Law requires companies to assess social and environmental risks in their supply chains.

The German Due Diligence Law came into force on 01 January, 2023, and it regulates German companies to conduct human rights due diligence such as protection against child labour, combating forced labour, land grabbing, occupational, health & safety, paying fair wages as well as environment compliance in their entire supply chain. The due diligence framework is described by the Organisation for Economic Co-operation and Development (OECD) in the illustration below:

**Due Diligence Process & Supporting Measures**

**Scope & Dates:**

German-based companies with at least:

- ≤ 3000 staff will be affected starting on 01 January, 2023.
- ≤ 1000 staff will be covered from 01 January, 2024.

**Enforcement Risks for Companies:**

- Reputational damage.
- Non-compliant companies may receive fines.
- Victims within and outside Germany can sue companies.
- Banning of companies in public procurement process.
The Eco Design Requirement for Sustainable Products was proposed in 2022 which set the obligation for introducing the Digital Product Passport for textile.

**Digital Product Passport (DPP)**
*(Focus Textile)*

Transitioning into the circular future requires access to information that can be traced in the entire life cycle of products, and this is why the Product Passport is crucial. The digital passport was introduced in March 2022. The DPP can provide the following information about a product:

- Presence of Recycled Content
- Presence of Hazardous Substances
- Durability and Reparability
- Recyclability

Information about products and their entire lifecycle is transmitted through a data carrier such as QR code, NFC chip or RFID tag.

**Benefits of the Digital Passport**

- To help consumers be better informed before purchasing products.
- To help stakeholders access information that can improve their environmental and social performance.
- To help policymakers better perform monitoring and compliance mechanisms.

**Scope & Dates:**

- First regulated products would be affected by regulation in 2026/7.
- DPPs are expected to be mandatory for most industries by 2030.

**Prioritized Industries:**

- Electronics & ICT
- Batteries & Vehicles
- Textiles
- Plastics
- Furniture
- Construction & Building
- Chemicals
GREEN WASHING DIRECTIVE

On 22 March, 2023, the Commission adopted a proposal for a Directive on Green Claims to tackle the problem on green washing and protect consumers.

The proposal includes the following:

- Ensuring consumers obtain robust and verified environmental information on products.
- Setting a common and science-based standard (e.g., lifecycle assessments) to verify environmental claims of industries.
- Setting requirements for the claims to be verified by an accredited third-party.

**What are the benefits of the Green Washing Directive?**

- Prevents green washing.
- Consumers will be better informed.
- Environmental claims will be transparent and credible.
- Companies will avoid reputational damage.

**Scope:**

- Small and Microenterprises with less than 10 workers and with an annual turnover not more than EUR 2 million are excluded from the requirements however if they wish to apply for a certificate to ascertain their environmental labels, they will have to comply with the requirements of the directive.

**Penalties for Non-compliance:**

- Non-compliant companies could face legal investigation, court injunction and could be fined up to four per cent of the company’s annual turnover.
THE AWARD OF EU ECOLABEL FOR FOOTWEAR

The EU Ecolabel for footwear is awarded to any general footwear which can assure consumers that the product has a high environmental performance throughout its entire lifecycle. The ecological criteria for the award were established by the European Commission on 05 August, 2016.

Ecological Criteria

The footwear must meet several criteria to be awarded the label and they include: showing proof that raw materials are sustainably sourced, reduction of water consumption, restricted presence of hazardous substance, tested for durability, meeting social standards, amongst others.

Scope & Date:

Who can apply for the Footwear Ecolabel?
- Manufacturers, importers and service providers. Traders and retailers marketing goods under their own brand labels.

- The validity for the current criteria is until 31 December, 2025.

Enforcement for Non-compliance:

- A company’s license may be suspended by a competent body.
- An enforced body may at any time without informing the licensed company visit their premises and access must be granted for the inspection.
The Commission established the EU Ecolabel criteria for textiles in June 2014.

THE AWARD OF EU ECOLABEL FOR TEXTILE PRODUCTS

The EU Ecolabel criteria apply to all the production processes of textile products. The validity period for the current ecolabel criteria for textile products is until 31 December, 2025.

Ecological Criteria

The EU Ecolabel may be awarded to textile products with less environmental impact during their entire life cycle. As such, the label guarantees that the sourcing process of the products promotes sustainable land management practices, the production process promotes resource efficiency, clean energy, minimum pollution to water, less use of hazardous materials and the products are designed for durability.

Benefits of certification with the EU Ecolabel

- The EU Ecolabel promotes consumers’ trust in textile and footwear products.
- Claims made by companies are verified by independent third parties and the license is recognized in all EU countries.
- The license promotes the reputation of a company.

Scope & Date:

- The EU Ecolabel criteria apply to all the production processes of textile products.
- The validity period for the current ecolabel criteria for textile products is until 31 December, 2025.
Drivers of forest degradation can be linked to the production of commodities like soy, beef, palm oil, wood, cocoa, coffee, rubber, and some of their processed products.

The Deforestation Regulation entered into force in June 2023 to ensure that a variety of commodities circulating in the EU market no longer contribute to deforestation and forest degradation in and outside the EU.

What does it mean for businesses?

The regulation implies that operators and traders henceforth will:

- Perform stringent due diligence processes such as risk management in their supply chains.
- Collect precise geographical data of farms where the goods are originating from.
- Show that the products are deforestation-free after 31 December, 2020 and must be compliant with the laws of the country of production.
- Publish due diligence performance results annually.
- Confiscation of the relevant commodities and products concerned from the EU market.
- Confiscation of profits gained by the operator and/or trader from marketing the product.
- Temporary exclusion from public procurement and access to public grants.
- Penalties can reach up to four per cent of the trader’s/operator’s annual turnover in the EU.

The EC will conduct country benchmarking based on the level of risk of each country.

What are the risks for non-compliance?

Perform stringent due diligence processes such as risk management in their supply chains.
Collect precise geographical data of farms where the goods are originating from.
Show that the products are deforestation-free after 31 December, 2020 and must be compliant with the laws of the country of production.
Publish due diligence performance results annually.
Confiscation of the relevant commodities and products concerned from the EU market.
Confiscation of profits gained by the operator and/or trader from marketing the product.
Temporary exclusion from public procurement and access to public grants.
Penalties can reach up to four per cent of the trader’s/operator’s annual turnover in the EU.
The Waste Directive was approved by the EU Parliament in 2018. Under the directive, EU countries are obliged to set up separate collection systems for all textile waste by 01 January, 2025. The directive will ensure that textile waste management aligns with the waste management hierarchy where top priority is given to the prevention of textile waste, followed by reusing, recycling, recovery options and disposal into landfills respectively. In addition, member countries are to adopt the extended producer responsibility for textile and textile-related products.

**Enforcement Risks for Companies**

1. Established waste enforcement group empowered to carry the compliance and enforcement.
2. It would be a criminal offence to illegally export waste out of the EU.
3. Penalties will be imposed for infringing companies.
4. A common criterion for assessing the level of penalties will be introduced under the directives.
5. The names of the operators involved in the illegal shipments will be made public and penalties imposed.

**Date:**


**Implications for Companies:**

- Member states are required to treat their waste locally.
- Requires member states to conduct inspections based on risk assessments for waste types and illegal shipment.

**Regulation on Textile Waste Shipment**

The waste shipment Regulation proposed on 17 November, 2021 will ensure that textile waste produced in EU countries are recycled and reused in the EU. In addition, the illegal exportation of textile waste will be tackled while ensuring that textile waste disguised under the label 'second hand clothing' and shipped to the global south does not cause damage to environment.
On 14 September, 2022, the European Commission proposed a regulation for prohibiting products made with forced labour operating on the EU market.

PROPOSAL FOR THE REGULATION PROHIBITING FORCED LABOUR

What are the benefits of the regulation prohibiting forced labour?

- **Support international efforts to combat child labour issues.**
- **Protect worker’s and children’s rights.**
- **Consumers can purchase goods made without forced labour and with respect for human and social rights.**
- **Companies will gain the confidence and trust of customers.**

**Scope:**

- The proposal includes all products within the EU market whether for the domestic or export markets.
- The proposal is still under review and has not yet been passed into law.

What are the risks for non-compliance?

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<th>Risk</th>
<th>Action</th>
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<tr>
<td>Prohibit the placing of the products concerned in the EU market and their export from the EU.</td>
<td>Order the non-compliant company to remove the finished products available on the market.</td>
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<tr>
<td>Non-compliant companies can be ordered to dispose of the products in compliance with EU legislation.</td>
<td>If adopted, EU member countries will be required to directly impound the goods made with forced labour.</td>
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The CBAM regulation entered into force on 16 May, 2023. The objective of the regulation is to prevent ‘Carbon leakage’, a scenario where EU companies with intensive carbon production relocate their factories outside the EU to take advantage of weak standards in other countries.

**THE CBAM REGULATION**

**THE CARBON BORDER ADJUSTMENT MECHANISM (CBAM)**

The CBAM will initially apply to the imports of certain carbon intensive products with high risk of carbon leakage e.g., cement, iron and steel, aluminium, fertilisers, electricity, and hydrogen.

**What is the certification process of the CBAM?**

**Step 1**
Importers purchase a carbon certificate which must correspond to the carbon fee that would have been paid had the product been manufactured domestically.

**Step 2**
Importers verify the payment for the carbon used in the production of the imported products, then the equivalent cost is subtracted.

**Dates:**
- The CBAM will move into its transitional phase on 01 October, 2023 accompanied with first submission of a report by importers at the end of 31 January, 2024.

**Scope:**
- The CBAM will initially apply to the imports of certain carbon intensive products with high risk of carbon leakage e.g., cement, iron and steel, aluminium, fertilisers, electricity, and hydrogen.
On 14 July, 2021, the European Commission adopted a proposal for a revision of Energy Taxation Directive (ETD) which was outdated. The aim of the new directive is to harmonise the taxation of energy products with EU climate policies, promote clean energy and discourage the consumption of fossil fuels.

The revised ETD has the following requirements:

- Setting the right tax price for products such that they correspond to their environmental impacts.
- Taxing more polluting goods the highest and removal of barriers to clean technology.
- Elimination of the current immunity enjoyed by the EU aviation and maritime transport sector for fossil fuel use.

Date:

It was proposed that the above-mentioned requirements should come into effect from January 2023.
The plastic levy came into force on 01 January, 2021 and it includes contributions from EU countries to the EU, the contributions depend on the quantities of non-recycled plastic packaging waste produced by each country. The aim of the levy is to reduce plastic packaging waste in the EU.

How will contributions be calculated?

Each EU member state must pay a plastic levy of 0.8 euros on each kilogram of non-recycled plastic packaging waste. Contributions are calculated using the Eurostat data already collected and provided by Member countries in accordance with existing reporting obligations.

What are the implications for companies?

In Germany, the German plastic levy expected to be passed in the first quarter of 2023 will impact importers who market single use-plastic products in Germany as well as exporters of single-use products.

It is expected that businesses will be required to pay the first levy in 2025.

Penalties for the German Plastic Levy:

- The German plastic levy will set up a penalty system as well as sanctioning of companies in situations of non-compliance.
- Authorized bodies can confiscate all goods on the market in cases of non-compliance.
The Non-financial Reporting Directive (NFRD) which came into effect in 2018 has been revised into the Corporate Sustainability Reporting Directive (CSRD) to expand the scope of the existing requirements.

The following table highlights the differences between the two Directives:

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<th>CSRD</th>
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<td><strong>Year</strong></td>
<td>Applied since 2014. Companies had to report to the directive first time in 2018.</td>
<td>Proposed in 2022 as an extension of the NFRD. Came into force January 2023.</td>
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<td><strong>Focus</strong></td>
<td>Providing stakeholders with information on • Finances, • Respect for Human Rights, • Gender Issues, • Anti-corruption Measures, • Treatment of Employees, • Education &amp; Environment Responsibility.</td>
<td>Widens the focus of reporting, such as: • Reporting on climate change risks.</td>
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<td><strong>Scope</strong></td>
<td>Bigger companies with more than 500 employees.</td>
<td>Broader scope covering a set of large companies, as well as listed SMEs.</td>
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<td><strong>Limitations</strong></td>
<td>Third party auditing not mandatory.</td>
<td>Requires verification by an independent third party auditor.</td>
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<td><strong>Status</strong></td>
<td>Requirements still applies until the CSRD enter into force.</td>
<td>Companies will have to apply the requirements for the first time in 2024 and publish reports in 2025.</td>
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FOREVER CHEMICALS OR PER- AND POLYFLUOROALKYL SUBSTANCES (PFASS) PROPOSAL

Forever chemicals are man made chemicals made up of very strong organic chemical bonds and such they persist in the environment for a long period making them very difficult to remove once released into the environment. They are very dangerous to human health and the environment.

Where are forever chemicals used?

Forever chemicals have durability, water and dirt repellant and heat insulation properties which make them desirable for producing several products. They are used in several products such as textile products, cosmetics, non-stick pans, paints, consumer products, refrigerant, fire extinguishers amongst others.

Restriction options assessed under proposal:

- Full ban of forever chemicals with no exclusion, a transition period of 18 months.
- Full ban with exemptions for short-term use.
- Restrictions based on assessments of alternatives to PFAS.
- Social economic impacts.

Dates:

- The European Commission set stricter prohibitions on PFASs in food from 01 January, 2023.
- The proposal for the restrictions for PFAS will be effective in 2026/2027.

Restriction Conditions:

- Banning the production, marketing, and use of PFASs.
- Restriction for PFASs content above the permissible limit.
- Restricting the use of PFASs as ingredients in other products.
ENDNOTES


5. wbcSD - Enabling Circularity Through Transparency: https://www.wbcsd.org/contentwbc/download/15585/226483/1


7. EU - Establishing the ecological criteria for the award of the EU Ecolabel for footwear: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016D1349


