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**Logistics company fined for exposing staff to asbestos**. The Health and Safety Executive (HSE) stated that the company did not obtain an asbestos survey, had no risk-assessed asbestos exposure, and had not trained staff about asbestos risks before requiring them to carry out excavation work at a rail and container freight port. A survey conducted by the HSE identified asbestos- containing materials in the mounds of spoil that were excavated and scattered around the footprint where the work had taken place, but the company failed to make a report as required under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 within the relevant time-frame. The company pleaded guilty to breaches of Regulation 5 and 11(1) of The Control of Asbestos Regulations 2012 and was fined £133,000. While cases such as this involving a large company are rare, it serves as a reminder to businesses of all sizes of the importance in obtaining an assessment of what materials will be disturbed and whether they contain asbestos before carrying out demolition, maintenance or refurbishment works.

**Two companies fined after worker is crushed**. According to the HSE, a vehicle trailer was improperly loaded with steel gates to ensure that their stability was independent of the load straps and potential hazard was not caught by relevant organisational and management arrangements. This led to the steel gates falling three metres on release of the straps and fatally crushing a worker. Both companies at whose premises the gates were loaded and unloaded pleaded guilty to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974 and were fined £120,000 and £239,000, respectively. This case is of particular relevance to logistics, production and supply facilities management, who should ensure that loading and unloading operations are properly planned and managed, including ensuring restraints are adequate for loads. Failure to do so could result in prosecutions of both the supplier and the receiver of the goods.

**Public owner of residential flats could be liable for up to £20 million in fire remediation costs**. It has been reported that a block of residential flats in London (owned by Mansfield Council) were found to have numerous breaches of the Regulatory Reform (Fire Safety) Order 2005 (as amended) (Fire Safety Order), which led to London Fire Brigade serving notices regarding the deficiencies. The failings include deficiencies in the fire resistance of protected routes and doors and a lack of the required 60 minutes of fire resistance for escape routes due to poor compartmentalisation in the building's construction. Estimated costs for fixing the deficiencies could be up to £20 million. This is relevant to all property owners and duty holders under the Fire Safety Order, which includes tenants with control over their demised premises. Fire compartmentalisation can be costly, so fire risk assessments should be used to assess risk and ensure appropriate action is taken. The case also highlights that building safety defects form part of the new Building Safety regime and that claims are available for defective works premises if they become uninhabitable (as covered in our June newsletter).

**UK Conformity Assessment (UKCA): Government shows flexibility on product marking rules**. The UK government announced this month that it will continue to recognise Conformite Europeans (CE) product marking in Great Britain for an additional two years (previously set at 31 December 2022, but extended to 31 December 2024), meaning businesses can, in most cases, continue to use the CE mark in the interim and have additional time to prepare for the full transition to UKCA marking. Businesses are also permitted to affix UKCA marking and include importer information for products from EEA countries on a label or an accompanying document until 31 December 2027 (an extension of 2 years from the previously announced date). The UKCA mark has been available for use since January 2021 (to show conformity with product standards in England, Scotland and Wales), which began a transition period during which both UKCA and CE markings were valid for most products. The Government hopes that the extra time will reduce labelling costs and allow businesses to "focus on delivering growth and creating jobs, while giving them flexibility in how they meet their legal obligations". The secondary legislation needed for the delay has been laid before Parliament.

**Bill of Rights will resume its passage through Parliament**. The draft Bill was dropped by the Liz Truss government, but is now reportedly due to resume its passage through Parliament. If passed, the Bill will repeal the Human Rights Act 1998, but will give effect to the same rights and the UK would remain a signatory to the European Convention on Human Rights. The main change the Bill would make would be to sever the UK's legal relationship with the European Court of Human Rights (ECtHR) and make the Supreme Court the ultimate authority of determining Human Rights claims in the UK. From a regulatory perspective, this would affect appeals relating to Article 2 inquests, for which the Supreme Court would be the forum. There would also be new rules on applying "pre-commencement" precedents when imposing positive obligations on a public authority, where the court would have powers to potentially ignore precedents set by the ECtHR or a domestic superior court if following them would lead to certain effects not considered desirable by the government, including undermining the public interest and contradicting primary UK legislation. We will report further as the Bill progresses through Parliament.

**Energy company receives fine for anti-bribery and corruption offences**. Earlier this month, Glencore Energy UK Ltd (Glencore) was fined £182,935,392 following a guilty plea for convictions for seven offences under the Bribery Act 2010 (BA) in June 2022. The Serious Fraud Office (SFO) had previously opened an investigation into the company, concluding that Glencore had paid $29 million worth of bribes (paid in dollars and Euros) to gain preferential access to oil in Cameroon, Equatorial Guinea, Ivory Coast, Nigeria and South Sudan. Counts 1 through 5 were offences of bribery, contrary to section 1 of the BA. Counts 6 and 7 were offences of failure of a commercial organisation to prevent bribery, which is contrary to section 7 BA. An investigation into the conduct of individuals at the company is ongoing. Upon sentencing, the judge highlighted the "sophisticated devices to disguise" the criminal acts, and that the seven charges of bribery "represent sophisticated offending that was sustained over prolonged periods of time". In addition to the fine, the company was subject to a confiscation order of £93,470,338.95 and payment of the SFO's prosecution costs of £4,550,362. The SFO has reported this as its largest ever fine following a conviction, and serves as a reminder to other companies of what sanctions can be imposed for such conduct.

**The concept of "piercing the corporate veil" not relevant to individuals sentenced for conniving in the commission of a corporate offence**. The Court of Appeal determined that a director (who had pleaded guilty to conniving as to the commission of an environmental offence by his company) was incorrect to argue that the financial gain obtained from the offence should be limited to the gains made to his salary, rather than the benefit to the company. The financial gain to the company was calculated as £2.5 million. The court dismissed his appeal, stating that the concept of "piercing the corporate veil" had no relevance, and that the approach of the sentencing judge should be to have regard to the intent, motives and conduct of the director in his business activities and in assessing resulting environmental harm. The case serves to highlight that individual liability can accrue in a situation where a company commits an environmental offence that is attributable to consent, connivance or neglect of a director, senior manager, or the like. It also highlights the method of how a criminal sentence against an individual will be weighed, such that individuals will not be entitled to seek refuge behind the corporate veil.

**Individuals under investigation should be anonymised in the sentencing of a company**. The High Court determined that in the sentencing of a company convicted of an offence, it is necessary and proportionate to anonymise the names of individuals also under investigation in related proceedings, even where the company enters a guilty plea. The court held that, without an order anonymising them, there would be a high risk of unfairness to the individuals in subsequent proceedings, as well as damage to their reputations. However, the order was time-limited to allow flexibility in the investigative decision-making process of the Serious Fraud Office. A further hearing on the order is to be held next year. This case is relevant to individuals working for organisations that may be subject to criminal investigations.

**Environment Agency (EA) enforcement undertakings and civil sanctions update**. The EA has updated its list of enforcement undertakings accepted between June and September 2022. Notable examples for environmental permitting sanctions, included Cranswick Country Foods Public Limited Company, which will contribute £75,000 to Norfolk Rivers Trust following unauthorised discharges of contaminated water from its abattoir into a watercourse in 2019 and Thames Water Utilities Limited will contribute £100,000 (split among London Wildlife Trust, Croydon Local Authority, and Thames21) for unauthorised discharge of sewage between January 2013 and March 2014. There were also packaging waste sanction, including Sazerac UK Limited who will pay £45,088.49 to Surrey Wildlife Trust for failing to register and to take reasonable steps to recover and recycle packaging. In parallel, the EA has updated its list of variable monetary payments accepted between 10 and 30 September 2022. The highest payment was for Redcorn Limited at £15,000, following an oil pollution incident on the River Lee Navigation in 2018.

**The Department for Environment, Food and Rural Affairs (DEFRA) delays publication of new targets under Environment Act 2021.** Following an announcement in the House of Commons, the government published that it would not meet its deadline of 31 October 2022 to publish new targets under the Environment Act 2021 (as required by the Act), citing the volume of responses received to its earlier consultation. DEFRA's consultation, which set out proposals for targets on biodiversity, water quality and availability, resource efficiency and waste reduction and air quality, had run from March to June this year and received over 180,000 responses. Under the Environment Act 2021, the binding targets must include some long-term targets, but also a specific target to reduce fine particulate matter (PM2.5) in ambient air (although this aspect is also being addressed in the Air Quality Bill discussed below). There is no new date for publication of targets, but DEFRA intends release a draft statutory instrument "as soon as practicable" and publish a summary of responses received to the consultation once the targets are finalised. Meanwhile, the Office for Environmental Protection (OEP) is fearful that DEFRA's failure to meet its deadline risks the OEP delaying its first review of the Government's environmental improvement plan, which is currently due in January 2023.

**Clean Air (Human Rights) Bill passes through the House of Lords committee stage**. The Bill, which had been conceived following the death of Ella Kissi-Debrah in 2013 (i.e. the first person in the UK to have 'air pollution' listed as a medical cause of death on their death certificate) passed the committee stage in the House of Lords, unopposed, on 18 November 2022. The Bill would create a human right to breathe clean air, being "air free from certain pollutants or concentrations of pollutants above certain levels", and requirements for the Secretary of State to achieve clean air across England and Wales within 5 years of the Bill coming into force and to maintain that status. The Bill will now move to the report stage for further scrutiny, before moving to the third reading in the House of Lords and then on to the House of Commons. There is currently no proposed timetable for this on the Bill's web pages, however we will monitor its progress and provide updates accordingly.

**DEFRA releases guidance on restriction of hazardous substances (RoHS) exemptions**. The government has published a guidance document on how to apply for an exemption to use a restricted substance in manufacturing electrical and electronic equipment. DEFRA links to a list of restricted substances, and has also recently updated guidance for manufacturers, importers and distributors. The guidance document covers exemption criteria, such as use of the restricted substance not weakening environmental and health protection, substitutes not being practicable or reliable, and the negative social, health or consumer impacts of a substitute being greater than benefits. Next, it deals with timescales and the method for submitting an exemption application (including how to deal with confidential information) as well as what to expect to happen once the application for exemption is submitted. Finally, it makes clear that businesses should apply for exemption renewals (in Great Britain and the EU separately) at least 18 months before expiration. Guidance is also given on the process for changing and deleting exemptions.

**EA published 2021 data on regulated businesses in England**. On 1 November 2022, the EA published its data on compliance ratings, pollution inventory, pollution incidents, enforcement and waste crime for 2021 that support the EA's "Regulating for people, the environment and growth 2021" report. It includes compliance ratings data for all waste and installation permits in 2021, used to help assess the risks from a regulated facility. There are also data on the pollution inventory for each release type (to air, land and waste transfers off-site) and the most serious pollution incidents dealt with by the EA in 2021, compliance assessment with permits, enforcement actions, and waste crime are also set out.

**UK Environment Secretary's ambition for UK to end plastic pollution by 2040**. The amount of plastic pollution in the ocean is expected to increase threefold between 2016 and 2040. The UK Government announced it is running a series of dialogue meetings (in partnership with the Ocean Plastics Leadership Network) with stakeholders from Tesco, Sainsbury's, Nestle, H&M, Greenpeace and others to discuss "how UK businesses can contribute towards bringing an end to plastic pollution and inform the UK's negotiating position for a far-reaching treaty". The first formal negotiations for this treaty are due to run between November and December this year. The treaty is expected to set obligations on countries to reduce pollution across the whole plastics life cycle, from production and consumption to disposal and waste management.

**DEFRA announces 3 year extension to UK REACH deadlines for transitional registrations**. In late November, DEFRA published a response to its consultation on extending the submission deadlines for transitional registrations under the UK chemical registration, evaluation, authorisation and restriction (REACH) framework. These transitional provisions allowed companies to submit initial "notification" data in order to continue trading, and subsequently provide the full registration data within a prescribed time frame (depending on tonnage and hazard profile of the substance). The government has confirmed it will significantly push back deadlines for submitting data. Legislation will be introduced to extend the first submission deadline from 27 October 2023 to 2026, the second submission deadline from 27 October 2025 to 2028, and the third submission deadline from 27 October 2027 to 2030. The dates for the Health Service Executive's (HSE) compliance checks also will be extended so as not to precede the new data submission dates.

**HSE approves first chemical authorisation application wholly made under UK REACH**. Following Brexit, the HSE is the REACH regulator in the UK. In late November 2022, the HSE published an agency opinion in response to MeiraGTx UK II Ltd's application for the authorisation for industrial use 4-(1,1,3,3-tetramethylbutyl)phenol, ethoxylated (4-tert-OPnEO). This is the first authorisation decision taken under UK REACH, based on an opinion formed by the HSE, rather than opinions adopted by the European Chemicals Agency (ECHA) under EU REACH. The DEFRA authorisation decision was published on the government website. The HSE has a database listing applications for authorisations, transitional applications, and authorisations that have been carried over (grandfathered) from EU REACH.

**Key outcomes of COP27 in Sharm el-Sheikh. The 27th international climate change conference of parties (COP27) took place in Egypt from 6 to 20 November 2022**. Two other conferences, CMA4 (which oversees implementation of the Paris Agreement) and CMP17 (which oversees the implementation of the Kyoto Protocol) also took place, although there is considerable overlap among parties to each agreement. The COP27 Sharm el-Sheik Implementation Plan includes pursuing further efforts to limit the global temperature increase to 1.5 degrees centigrade (though there was continued lack of consensus on referring to the phasing "out" of all fossil fuels). The Plan refers to reducing greenhouse gas (GHG) emissions and transforming energy systems by increasing "low emission and renewable energy", and "the phase down of unabated coal power and phaseout of inefficient fossil fuel subsidies". The Plan warns that the current nationally determined contributions are unlikely to keep global temperature rise to 2 or 1.5 degrees Celsius, and urges countries that are yet to submit updated nationally determined contributions or long-term GHG emission development strategies to do so. Another key aspect of the Plan was the commitment to develop a new loss and damage fund to assist developing countries that are particularly vulnerable to the effects of climate change. However, the fund's finer details (e.g. the source of the money and eligibility for payout) remain to be determined.

**Environment, Food and Rural Affairs Committee report on plastic waste proposes ban on export**. On 7 November 2022, the House of Commons Environment, Food and Rural Affairs Committee published a report titled "The price of plastic: ending the toll of plastic waste" that recommends that the UK government bans the export of plastic waste by the end of 2027. The UK exports over 60% of its plastic waste, which has caused problems when exported to countries that have not managed the waste sustainably. The report also recommends a range of measures, including "extended producer responsibility" for all businesses putting one tonne or more of packaging on the UK market by 2030 and tailoring the plastic packaging tax, such that the 30% recycled content requirement reflects the need for different sectors to commit to increasing the recycled content requirement over time. The government has two months from the date of publication to respond.

**DEFRA publishes legislation for data submission requirements under extended producer responsibility (EPR) reforms**. The Packaging Waste (Data Reporting) (England) Regulations 2022 have been laid before Parliament by DEFRA and detail how businesses will be required to submit data under new EPR laws, together with associated government guidance. EPR will, at least initially, apply alongside the existing packaging waste producer responsibility regime, but producers of certain categories of packaging (initially household and street bin waste) will have to pay additional waste management fees. Producers in England will be required to collect data from March 2023 (or January 2023, if they have that data) so that they can begin to pay towards in scope packaging from 2024 onwards. They will also need to maintain records for each data collection period and retain them for at least seven years from the end of that period (which can be done through a compliance scheme). Organisations who are already obligated under the current packaging regime (with an annual turnover exceeding £2 million that handle more than 50 tonnes of packaging in the UK) will need to follow the new data reporting requirements, which may require different data to be collected (or at least organised differently to reflect differences in the EPR regime.  These organisation will be required to record and submit data about the empty packaging and packaged goods handled in the UK; register with, and pay a fee to, the EA, and buy recycling credits (Packaging Waste Recovery Notes or Packaging Waste Export Recovery Notes) to meet recycling obligations. Producers of household and street bin packaging will also need to pay additional waste management fees. Smaller organisations (with an annual turnover between £1 million and £2 million that handle between 25 and 50 tonnes of packaging in the UK) will be required for the first time to record and submit data about the empty packaging and packaged goods handled in the UK and register with, and pay a fee to the EA, although they will not need to buy PRNs/PERNs or pay EPR waste management fees.

**Government requests information as it considers listings and exemptions for three chemical substances proposed as Persistent Organic Pollutants (POPs)**. The government requested information on substances proposed as POPS, which are a family of organic compounds that do not biodegrade and are therefore persistent in the environment. They are listed in the Annexes to the Stockholm Convention, to which the UK is a party, and include some substances within the well-known per- and polyluoroalkyl substances family that have water-resistant, non-stick, and firefighting properties found in many products. The information requested will feed into draft Risk Profiles and Risk Management Evaluations on the three substances that the government says will "help determine the need for any specific exemptions and acceptable purposes".

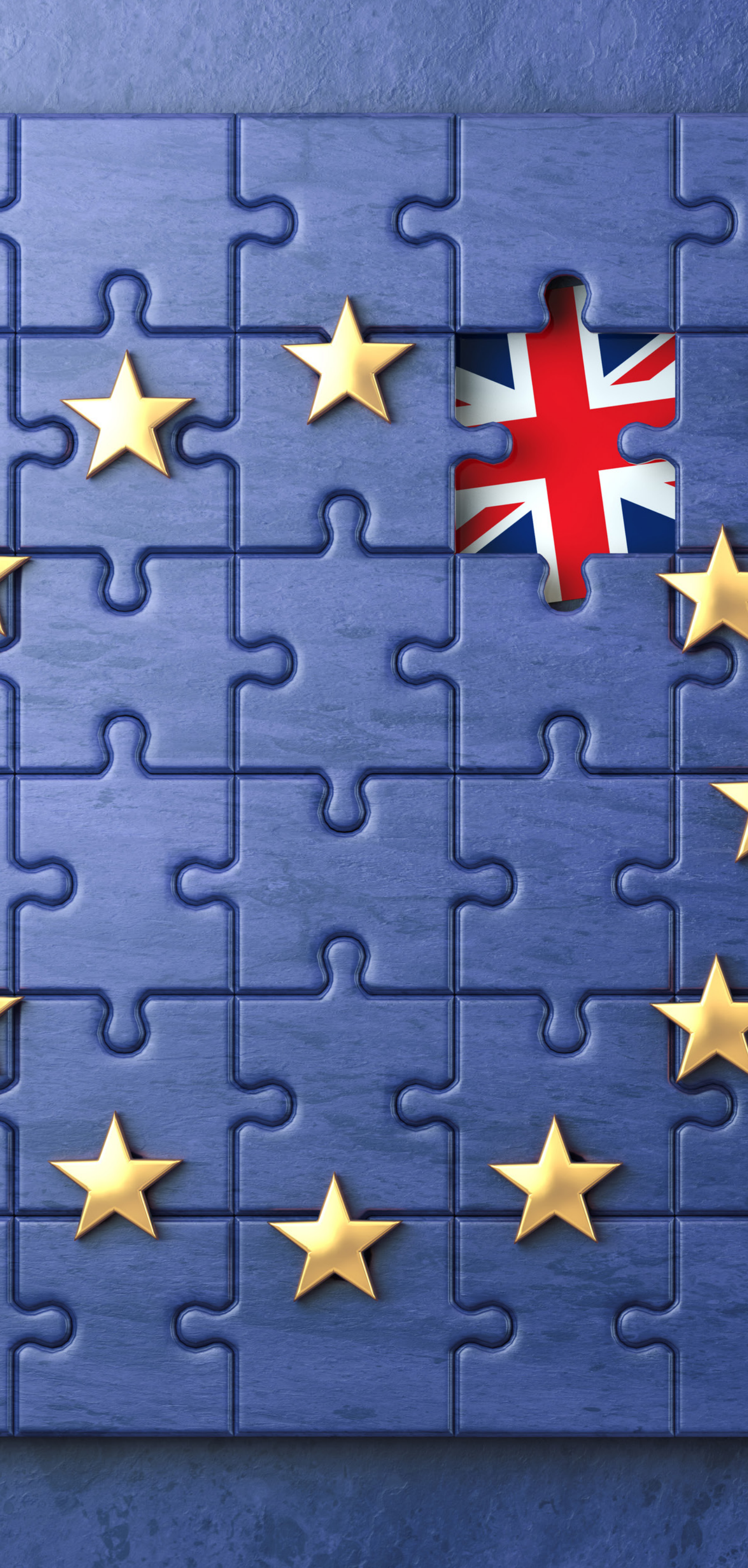
These are:

- Adverse effects resulting from the long-range transport of chlorpyrifos (Annex E of the Stockholm Convention)
- Socioeconomic considerations for long-chain perfluorocarboxylic acids, their salts and related compounds (Annex F of the Stockholm Convention)
- Socioeconomic considerations for chlorinated paraffins with carbon chain lengths in the range C14 to C17 and with chlorination levels at or exceeding 45% chlorine by weight (Annex F of the Stockholm Convention)

The deadline for submissions was 28 November 2022.

**Two national investigations opened into potential water industry permit breaches**. The EA and Ofwat announced the two separate major investigations into potential non compliance with permit conditions by water and sewerage companies at wastewater treatment works. The EA stated that the investigations are to obtain and secure evidence that will be used to consider all the options available under its enforcement and sanctions policy, including criminal prosecution. Reducing water pollution has become a priority in UK environmental policy. and the investigation is unsurprising in the context of a series of high-profile convictions of water and sewerage companies in recent years and the Environment Secretary's recent proposal to increase civil penalties for water companies 1,000-fold to a maximum of £250 million (we reported on this in October's edition and in a recent frESH blog post). In August 2022, the government published its "storm overflows discharge reduction plan" which sets new targets for water companies to improve all storm overflows. The EA stated in its announcement that the plan "does not impact" its ongoing criminal investigation.

**Climate task forces publish disclosure frameworks for consultation**. The Taskforce on Nature-related Financial Disclosures (TNFD) has published the third iteration of its beta disclosure framework (TNFD Framework) for consultation. The TNFD Framework provides guidance to businesses on reporting and acting on evolving nature-related risks (as reported on in our July newsletter). The third version provides updates including proposed disclosure recommendations related to supply chain traceability and draft guidance on target setting. In addition, the UK Transition Plan Task force (TPT) has published its proposed Disclosure Framework for private sector climate transition plans (TPT Framework) as well as accompanying implementation guidance. Although there is no specific legal requirement for companies to publish a transition plan, it is expected to form part of the reporting recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD). The TCFD is the standard that current and proposed UK and EU corporate sustainability reporting laws are aligned with, including Companies (Strategic Report) (Climate-Related Financial Disclosure) Regulations 2022 and the recently adopted EU Corporate Sustainability Reporting Directive. The TNFD Framework and TPT Framework seek to provide a standard for companies to report in line with TCFD reporting recommendations. Both the TNFD and TPT plan to finalise their respective frameworks in 2023.



**Impact assessment for the "Brexit Freedoms Bill" is "not fit for purpose", and government provides details of retained EU law dashboard**. In our September newsletter, we highlighted that the Retained EU Law (Revocation and Reform) Bill 2022-23 (i.e. the "Brexit Freedoms Bill") had been introduced to Parliament and proposes a sunset date of 31 December 2023, after which retained EU law not assimilated into UK law will be automatically repealed. The Regulatory Policy Committee (RPC) has published its opinion in relation to the impact assessment for the Bill and has red-rated it as "not fit for purpose". The RPC found that the Department for Business, Energy & Industrial Strategy (BEIS) has "not sufficiently considered, or sought to quantify, the full impacts of the Bill" and that the impact assessment does not "include a consideration of the impact on small and micro businesses" consistent with the government's better regulation framework. The government has, however, published its letter to the Chair of the Public Bill Committee for the Bill, which provides further information about BEIS' Brexit Opportunities Unit and The National Archives to identify retained EU law and add it to the retained EU law dashboard, which seeks to clarify how BEIS will seek to achieve the identification of all relevant retained EU laws by the sunset date.

**Recommendations for net-zero commitments published by the United Nations ("UN") in report**. Earlier this month during COP27, the UN's High-Level Expert Group on the Net-Zero Emissions Commitments of Non-State Entities published the report, titled "Integrity Matters: Net-Zero Commitments by Businesses, Financial Institutions, Cities and Regions". The report seeks to provide a "roadmap to prevent net-zero from being undermined by false claims, ambiguity and 'greenwash'" by making 10 recommendations for what non-state actors need to do to achieve net zero ambitions. These include making a net-zero pledge and setting targets, not claiming to be net-zero while investing in fossil fuel supplies, not lobbying to undermine national climate policies, and cutting emissions, rather than seeking to offset. The report may assist companies seeking to transition towards net-zero in line with best practice.

**European Parliament votes to adopt proposal for Directive on Corporate Sustainability Reporting**. Following a vote in the European Parliament on 10 November and formal adoption by the European Council on 28 November, the EU is progressing towards the adoption of the Corporate Sustainability Reporting Directive (CSRD), which amends the 2014 Non-Financial Reporting Directive (NFRD). The CSRD's aim is to create better transparency to the public and to investors on a company's sustainability efforts, and will expand the scope of obligated companies required to disclose information on their activities in their management reports. Crucially, third country entities may be obligated under CSRD if they (and an EU subsidiary or branch) meet certain turnover-related thresholds. Following formal adoption by the European Council, the CSRD will then be published in the Official Journal of the European Union and will enter into force 20 days after its publication. EU member states will then have 18 months to implement the directive into national law. CSRD provisions covering "large undertakings" (i.e. those with over 500 employees that are already subject to the NFRD) will begin to apply from 2024, with reporting starting the following year. For other obligated entities (i.e. large undertakings not already subject to NFRD and listed small to medium-size enterprises), CSRD will apply from 2025 and 2026 respectively. The phase-in date for extension to certain non-EU entities is 2028.

**ECHA launches enforcement project on imported substances**. ECHA's Enforcement Forum agreed to focus its next project on the control of imports of substances, mixtures and articles. The project will be done in 2023-2025 and will require close cooperation between REACH enforcement and national customs authorities in the member states. The subject of this project, in particular (i.e. compliance check of imports), was triggered by high levels of non compliance in imported goods detected in previous Forum projects, including a recent pilot project that found that 23% of inspected products were non compliant with requirements set by EU law and that further controls were necessary. Control of imports at the point of entry is the most effective means of checking that non compliant substances, mixtures and articles do not enter the European market. The project will also work on further developing and strengthening existing cooperation between REACH inspectors and customs. By strengthening the control of imports, the project will also contribute to the goals of the EU's Chemicals Strategy for Sustainability.

**EU Court annuls Commission's classification and labelling of titanium dioxide as a carcinogenic**. The General Court judgement relies on 2 arguments: (1) the European Commission made a manifest error in its assessment of the reliability and acceptability of the study on which the classification was based, and (2) it infringed the criterion according to which that classification can relate only to a substance that has the intrinsic property to cause cancer. The court found that ECHA's Risk Assessment Committee (RAC) failed to take into account all the relevant factors in and committed a manifest error of assessment. Insofar as the Commission based the contested classification and labelling on the RAC Opinion, it committed the same manifest error of assessment when it adopted the contested regulation. On the basis of the contested RAC opinion, the European Commission had adopted Delegated Regulation 2020/217, by which it proceeded with the harmonised classification and labelling of titanium dioxide, recognising that the substance was suspected of being carcinogenic to humans by inhalation in powder form containing 1% or more of particles of a diameter equal to or below 10 μm. This delegated regulation is the one that the General Court annulled. As far as the second main argument is concerned, in view of the fact that, under Regulation 1272/2008 (CLP Regulation), harmonised classification and labelling of a substance as carcinogenic may be based only on the intrinsic properties of the substance that determine its intrinsic capacity to cause cancer, the General Court focused on the interpretation of the concept of "intrinsic properties".. The General Court concluded that, by upholding the conclusion contained in the RAC opinion that the mode of action of carcinogenicity on which that committee relied could not be regarded as intrinsic toxicity in the classical sense, but had to be taken into consideration in the context of harmonised classification and labelling under CLP, the Commission committed a manifest error of assessment.

**Revised Packaging and Packaging Waste Directive (PPWD) leaked from the Commission (again)**. The new version of the recently leaked revision of PPWD was disclosed last week. The Commission decided to lower the level of ambitions of the original text, but opted for keeping the proposal as a regulation. The recycled content requirement will address plastic parts of the packaging (and not plastic packaging as such). All packaging placed on the market will have to be recyclable (which was not previously expressed). Details of recyclability performance grades from A to E will be laid down by the secondary legislation. Packaging with a performance grade below D will considered non-recyclable, and therefore will not be allowed to be placed on the market. The amended version does not contain the previously present "negative list" (part D of Annex D) listing packaging that, under certain conditions, would be deemed automatically "non-recyclable" as of 1 January 2030. The Commission decided to keep controversial Annex V, restricting the use of certain packaging formats, such as single-use hotel miniature packaging for products of less than 50 ml for liquid and less than 100 g for non-liquid ones (e.g. shampoo bottles, hand and body lotion bottles) or single-use packaging for foods and beverages filled and consumed within the premises in the hotels, restaurants and cafes sector. The revised version specifies that transport between two sites of the same enterprise or between two different enterprises within same member states will have to be performed with use of fully reusable transport packaging. This target has been kept at 90% for transportation of large household appliances, but the target of reusable transport packaging for items sold via e-commerce for 1 January 2030 was lowered from 20% to 10%. A new definition introduced clarifies that reusable packaging conveyed to reconditioning shall not be considered waste. The official text was adopted on 30 November 2022 and we will report further next month.

**Commission's framework for bio-based, biodegradable and compostable plastics**. A draft Commission framework for bio-based, biodegradable and compostable plastics is yet another file leaked from the European institutions in the past weeks. The document paves the way for an EU-harmonised approach regarding three materials (bio-based, biodegradable and compostable plastics) but does not constitute a proposal for a legally binding legislation. The official communication was also presented as a part of circular economy package on 30 November 2022. The framework states that the use of use bio-based, biodegradable or compostable plastics (being single-use materials) has rather limited value. Therefore, their use should be restricted to cases when they provide genuine environmental benefits over conventional plastics or alternatives. The framework promotes use of recyclates over virgin plastics (even bio-based ones). The paper also discusses the incomprehensibility of terms "bio-based", biodegradable" and "compostable" for consumers, lack of clear legal definitions, and risks associated with the improper disposal of such materials. According to the document, suitable uses of these plastics are light plastic carrier bags, tea bags, coffee pods and fruit and vegetable stickers – for compostable plastic; and mulching films, dolly ropes, fireworks, tree protections, plant-fixing clips or lawn trimmer threads – for biodegradable plastics.

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