

Make sustainable products the norm

EU Ecodesign for Sustainable Products Regulation

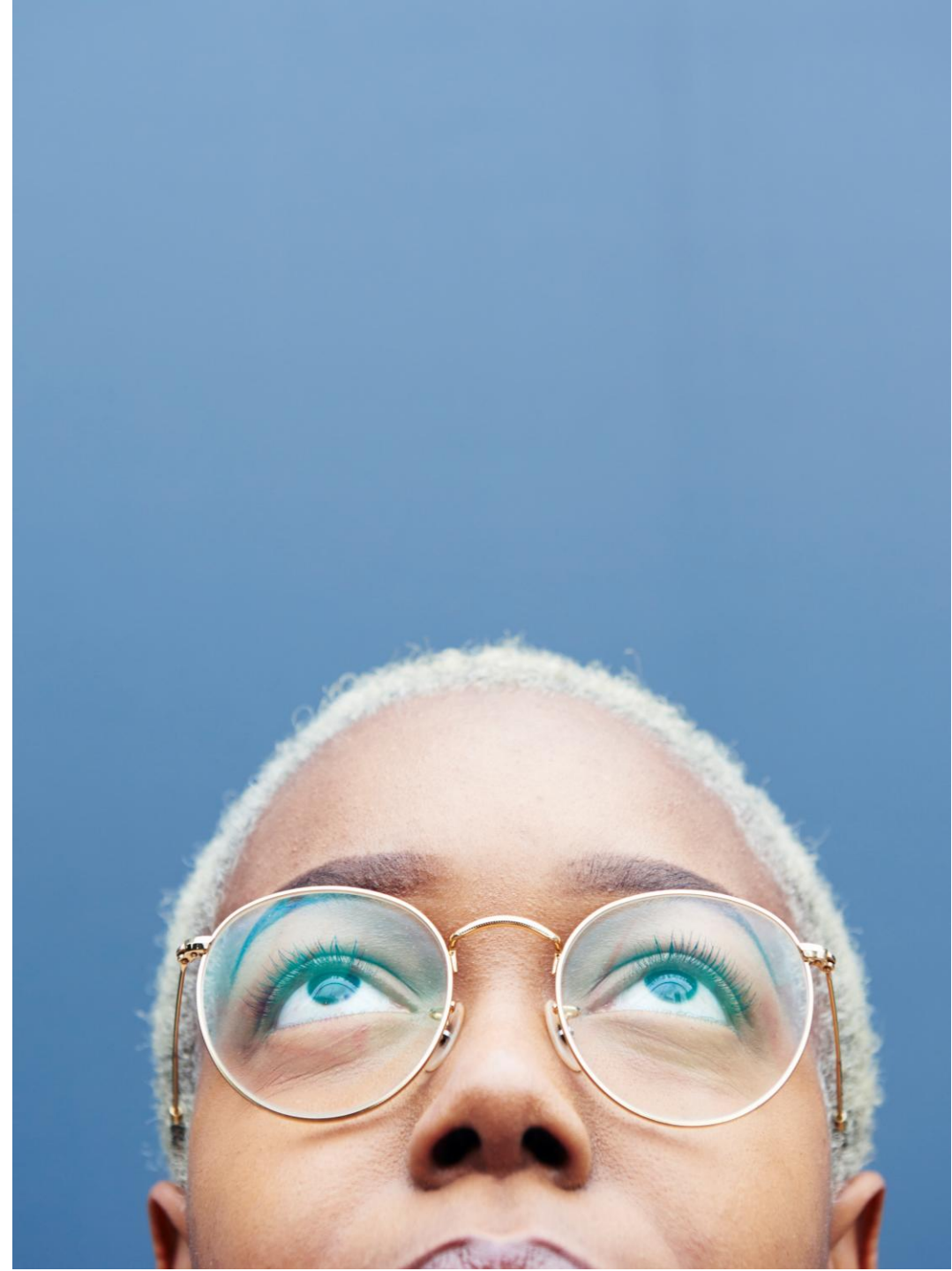
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October 2024

ClientEarth[Ⓢ]

Who we are

- Legal charity focusing on using the law to improve protection of the environment and health
- Variety of topics covered, incl chemicals
 - EU focused advocacy and capacity building (REACH, CLP, Ecodesign, OSOA etc)
 - Litigation
- STOs at ECHA (RAC, SEAC, MSC)



ESPR Scope (1)

Repealing Directive 2009/125/EC on energy-related products

Article 1 ESPR: „Framework for setting ecodesign requirements that products have to comply with to be placed on the market or put into service, with the aim to improve their environmental sustainability to **make sustainable products the norm...**”

- Mandatory “Minimum” Product Sustainability requirements, “removal of the worst performing products from the market” (Recital 24)



ESPR Scope (2)

From „energy-related products“ to „**any physical goods**“

„reduce the overall carbon footprint and environmental footprint of products over their life cycle (Article 1)

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Overview Ecodesign Requirements

	Performance requirements
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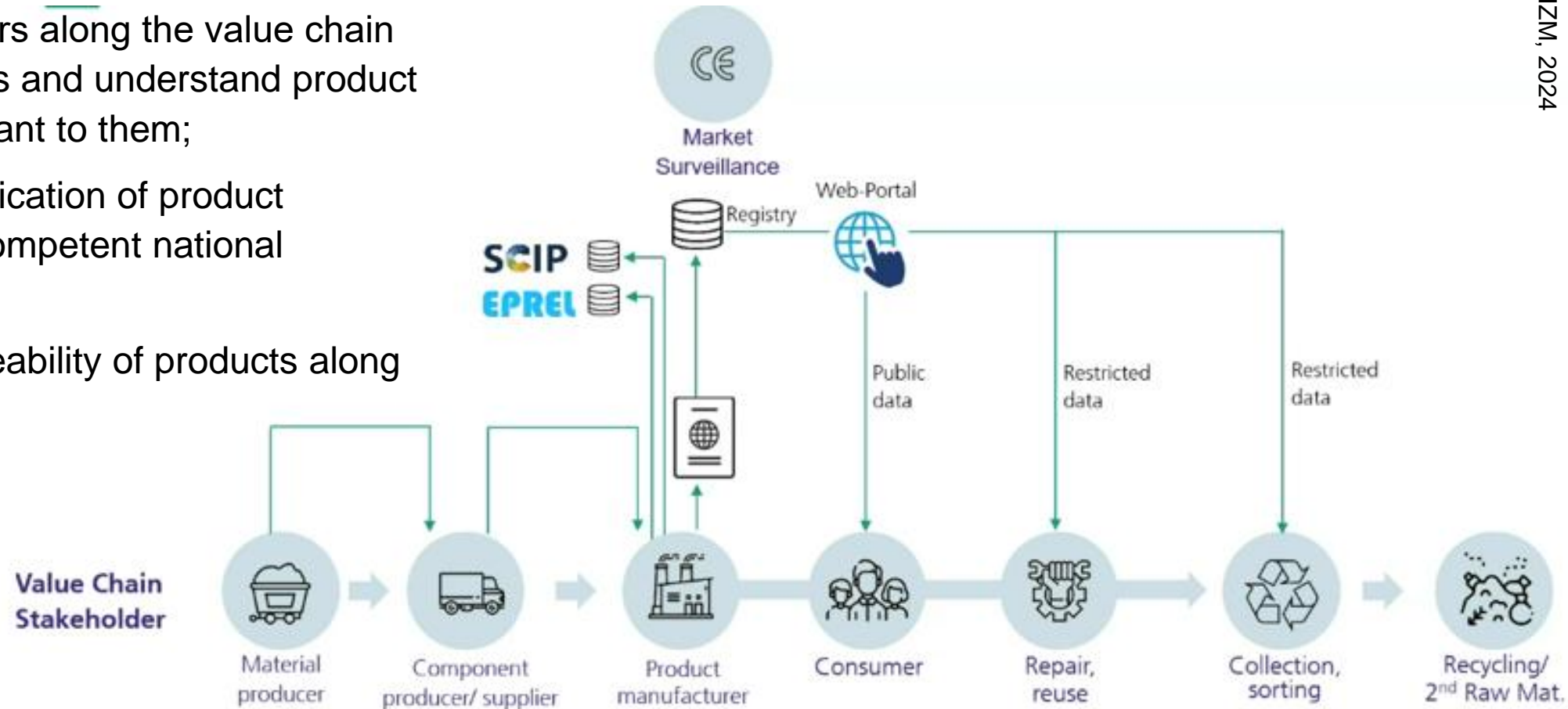
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<p>Horizontal requirements covering several product groups with sufficient technical commonalities</p>	<p>In particular on durability and reparability (recital (15))</p>	<p>DPP and info on substances of concern not mandatory</p>

Digital Product Passport – DPP as new EU tool

- Article 9: The DPP shall
- “ensure that actors along the value chain can easily access and understand product information relevant to them;
- facilitate the verification of product compliance by competent national authorities; and
- improve the traceability of products along the value chain.”

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ESPR is adding new tools



Mandatory Green Public Procurement

Mandatory GPP criteria to be set for contracting authorities or contracting entities



Prevention of destruction of unsold consumer goods

Transparency requirements for those discarding unsold goods, and possibility to ban destruction for relevant product groups

Ban on destruction of **apparel** and **footwear** after 2 years

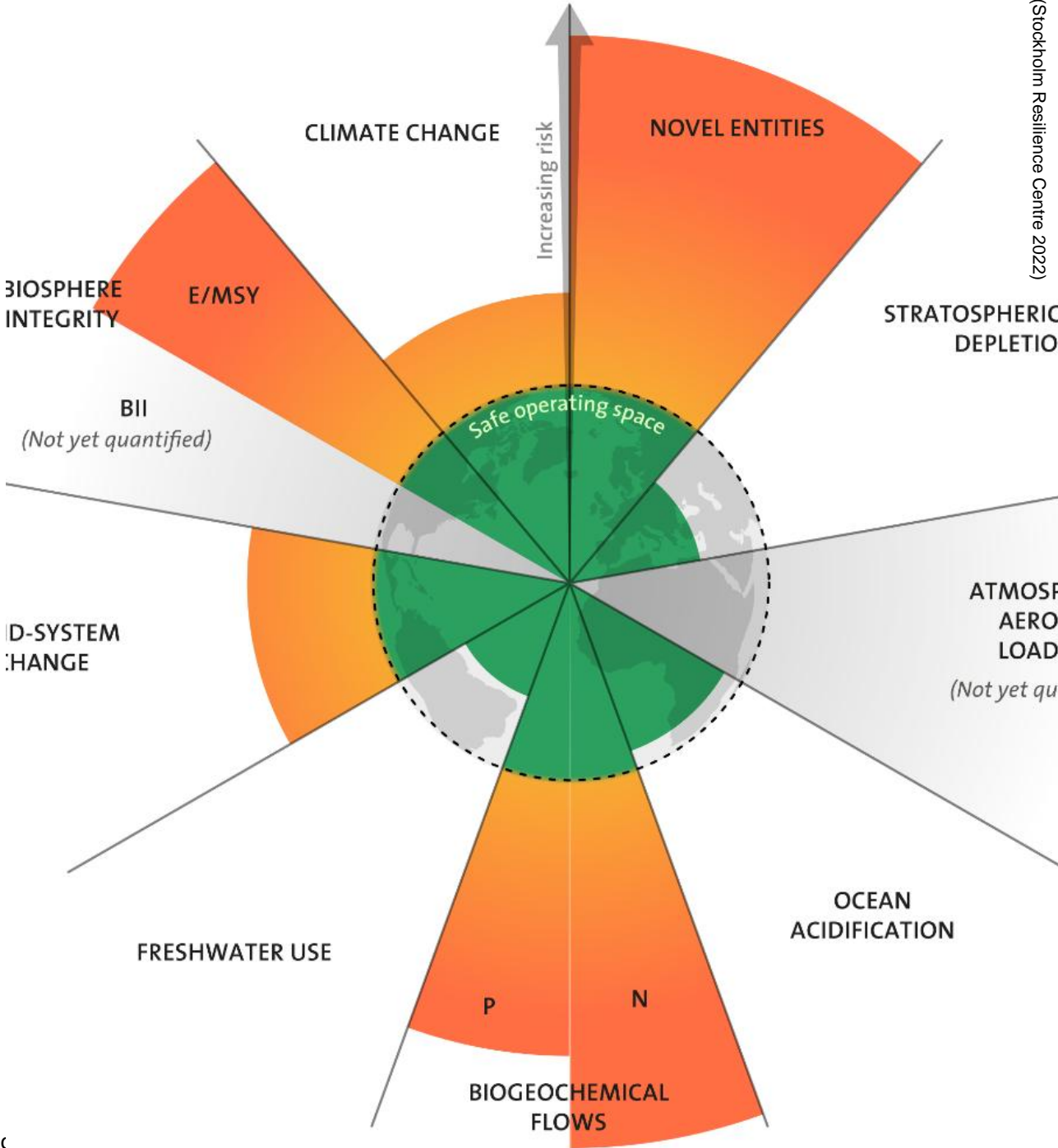


Market surveillance and customs controls

Strong focus on controls of regulated products, incl. planned market surveillance activities

Support to common projects and investments

Chemicals



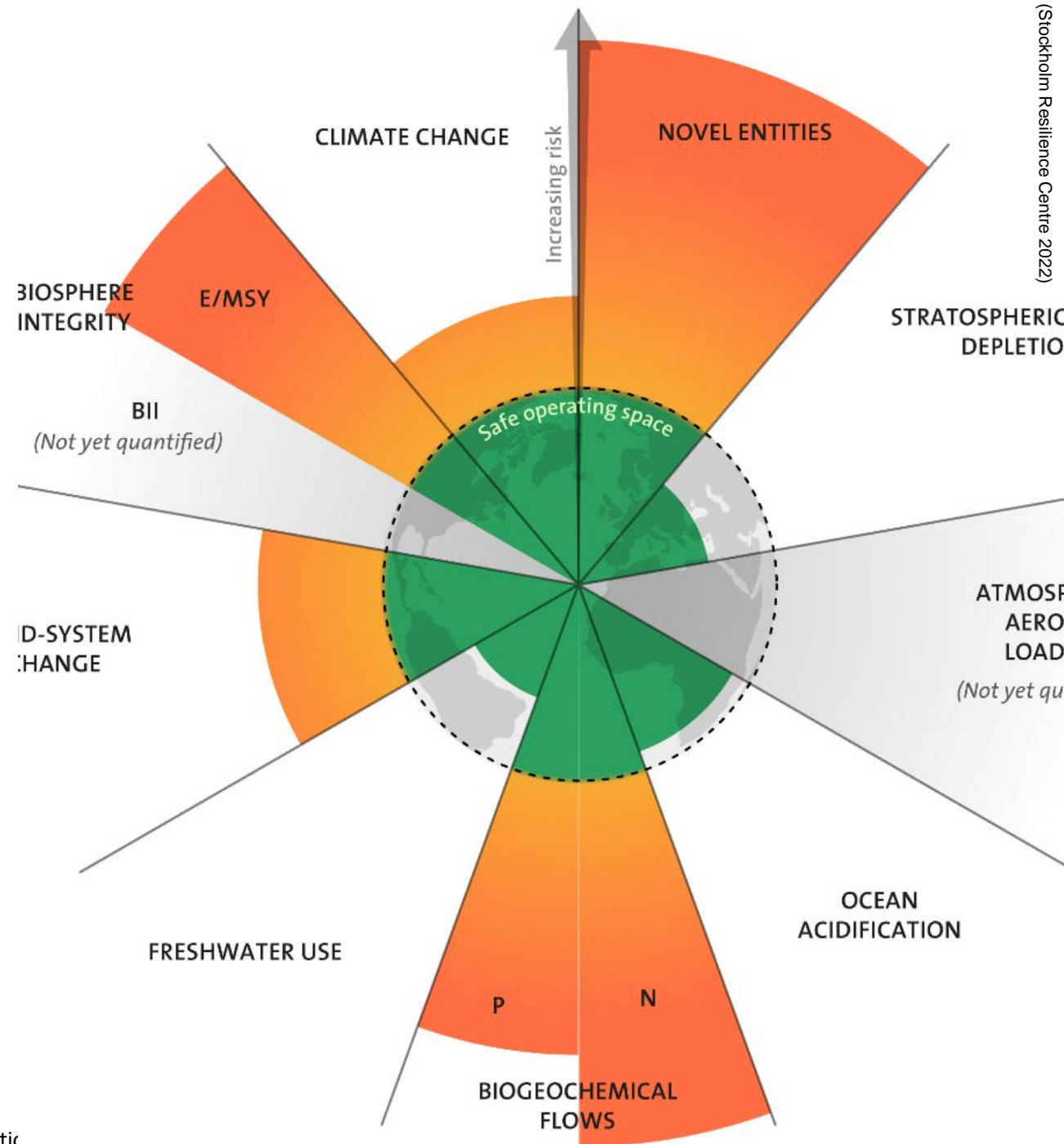
(Stockholm Resilience Centre 2022)

Classificati

Chemicals

Recital 31:

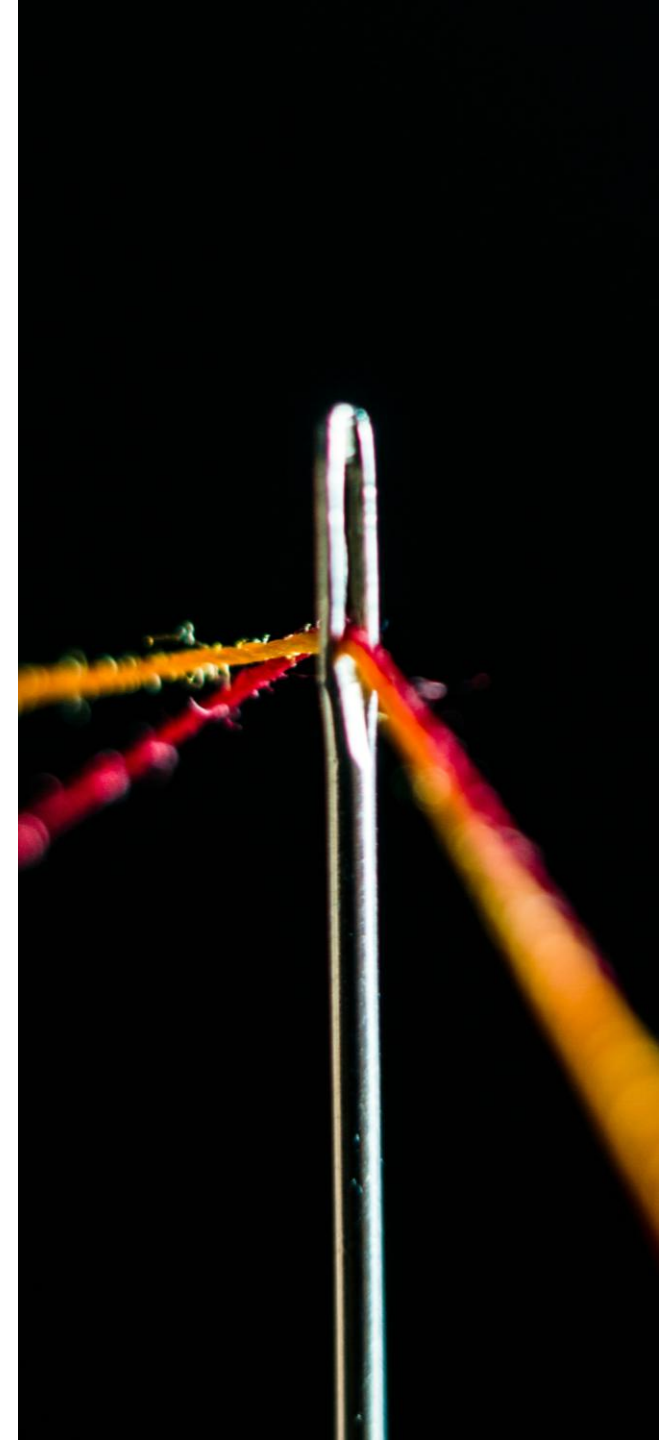
Information on the presence of substances of concern in products is a key element to identify and promote products that are sustainable. The **chemical composition** of products largely determines their functionalities and impacts, as well as the possibility for their reuse or for recovery once they become waste.



Tracking Substances of Concern

Default information requirements (Article 7)

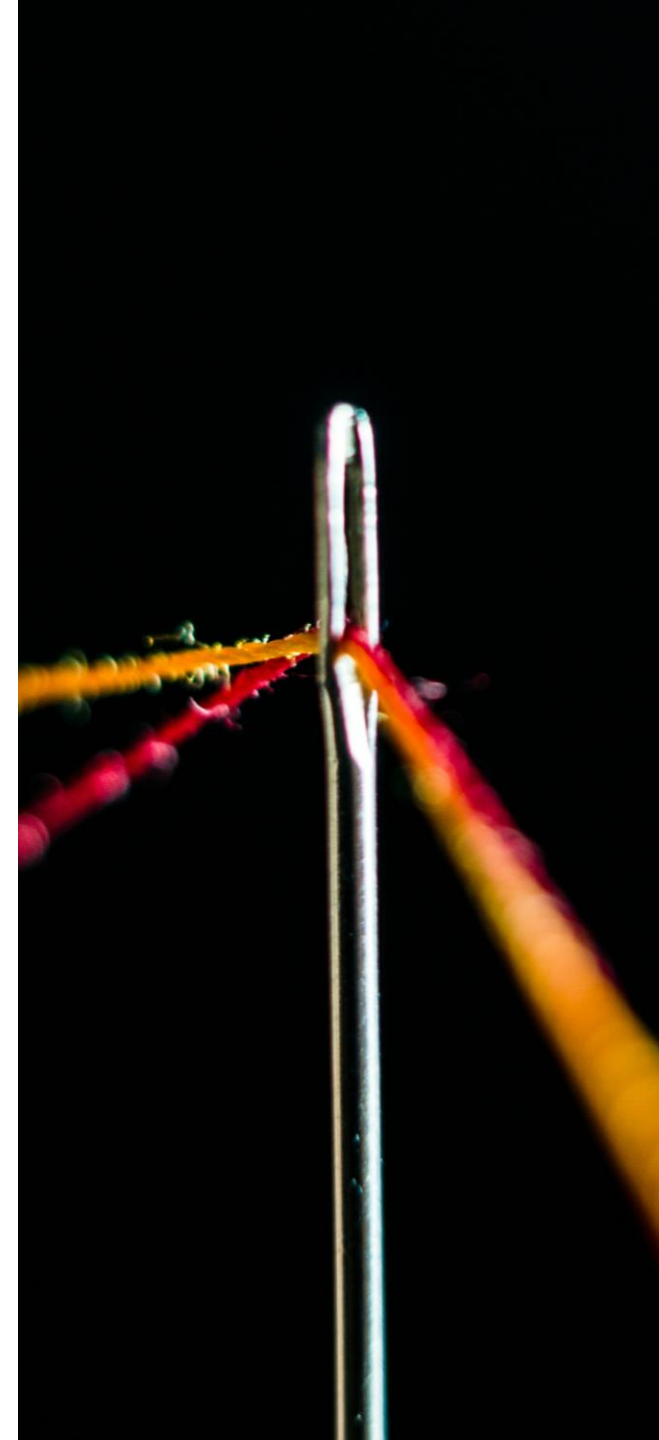
- „information requirements shall make it possible to track **substances of concern [SoC]**, throughout the life cycle of the products concerned” ... “and shall include at least”:
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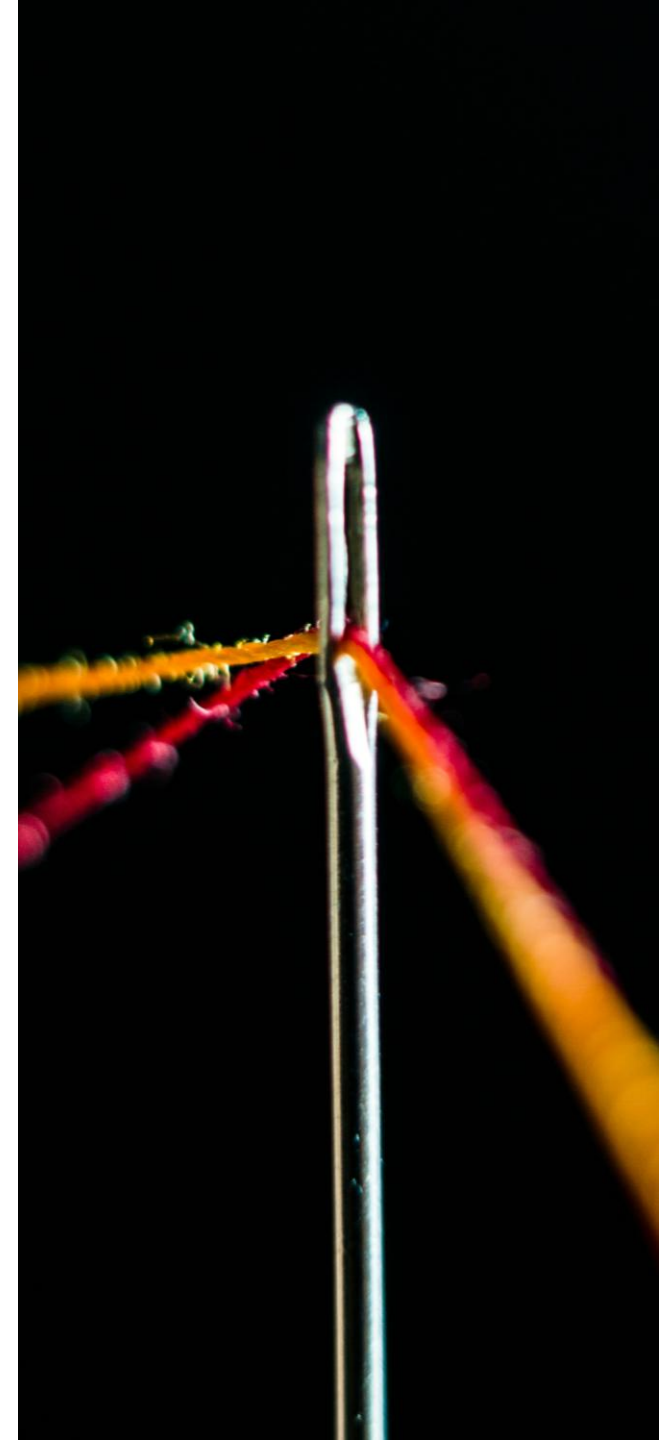
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- SoC = SVHCs (REACH), CLH (CLP), POPs ...and:
- substance that “negatively affects the reuse and recycling”
 - E.g. HFR under Reg 2019/2021 on ecodesign requirements for electronic displays (T-113/20: BSEF v Com)



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- What does it mean for a long-lasting product?
- **Potential change in paradigm**



Substances of Concern under ESPR

Substances which give rise to an **equivalent level of concern (ELOC)** identified on a case-by-case basis (REACH Art. 57(f))

492 ref. substances
(for SCIP, as of June 2024)

REACH Annex XIV

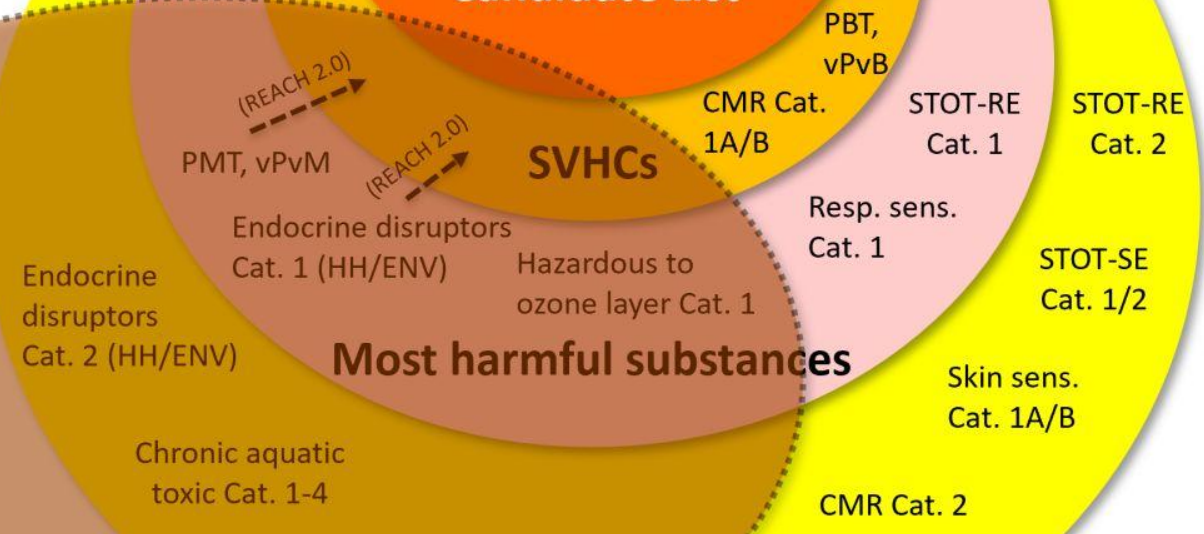
Candidate List

POPs (Reg. (EU) 2019/1021)

"Several hundred substances"
(COM FAQ on ESPR, 09/2024)

Other (to be) restricted substances
REACH Annex XVII/specific legislation: e.g. "universal" PFAS, microplastics

>10,000 PFAS
(OECD definition)
Not captured as such by SoC definition



~5000 substances with a harmonized classification in the selected hazard classes or categories under CLP (COM FAQ on ESPR, 09/2024)

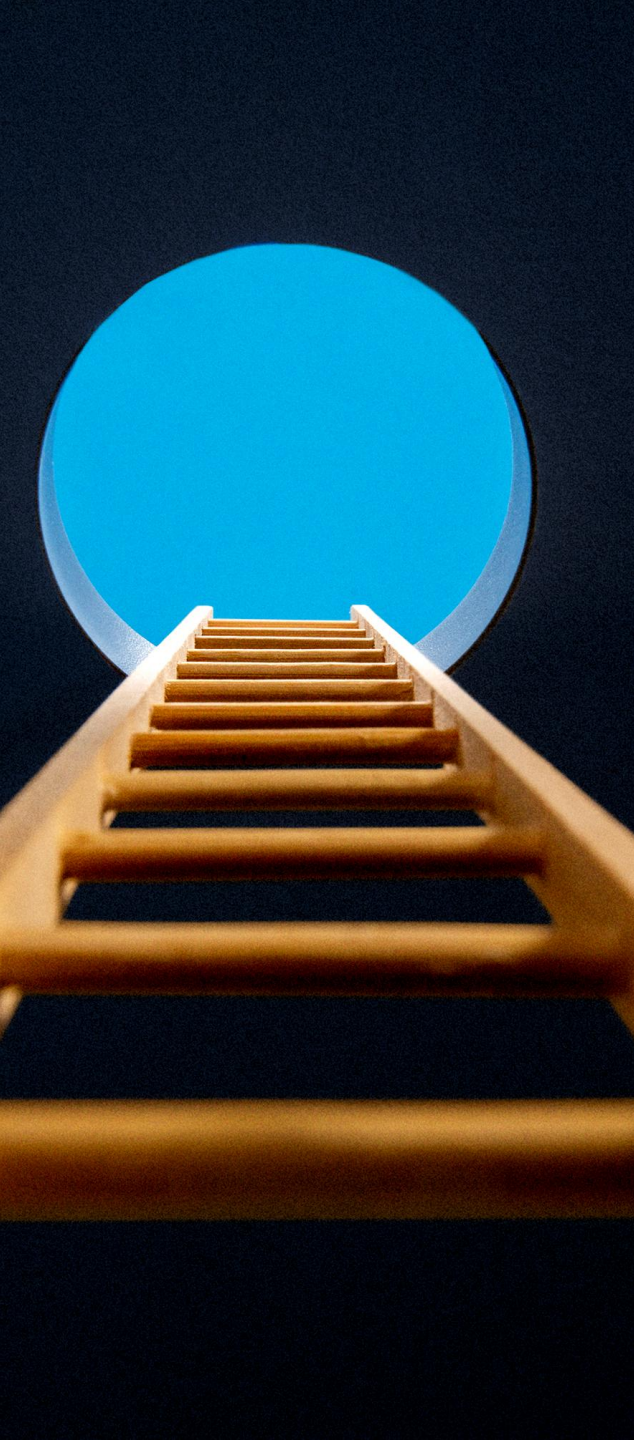
Substances of Concern (SoC)

Circularity-based SoC
"negatively affects the re-use and recycling of materials in the product in which it is present"

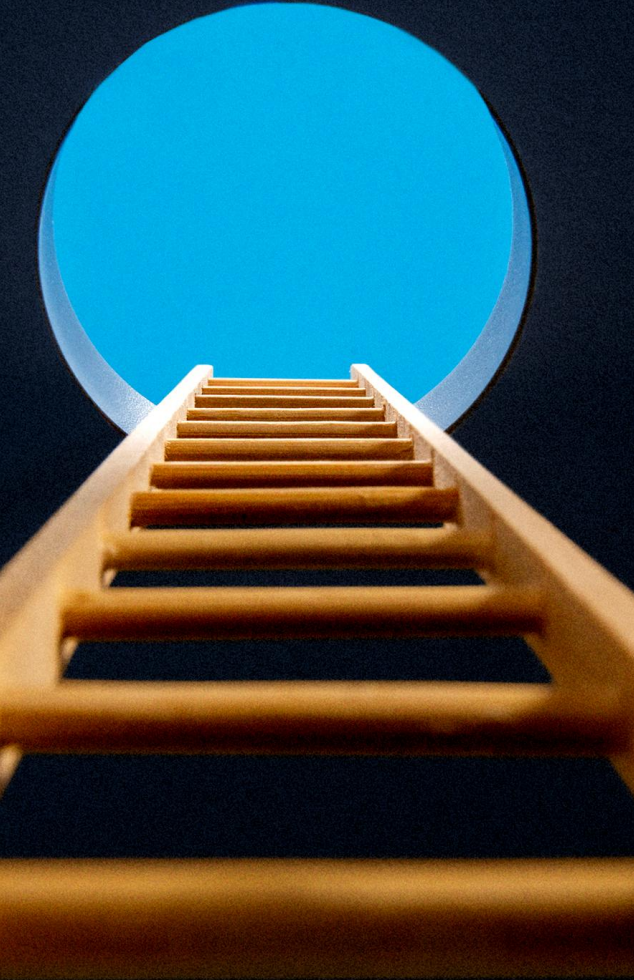
To be identified on a per-product basis

Tackling chemical risk

- Article 6(3): „Performance requirements based on the product parameter referred to in Annex I, point (f), **shall not restrict, for reasons relating primarily to chemical safety, the presence of substances in products.**

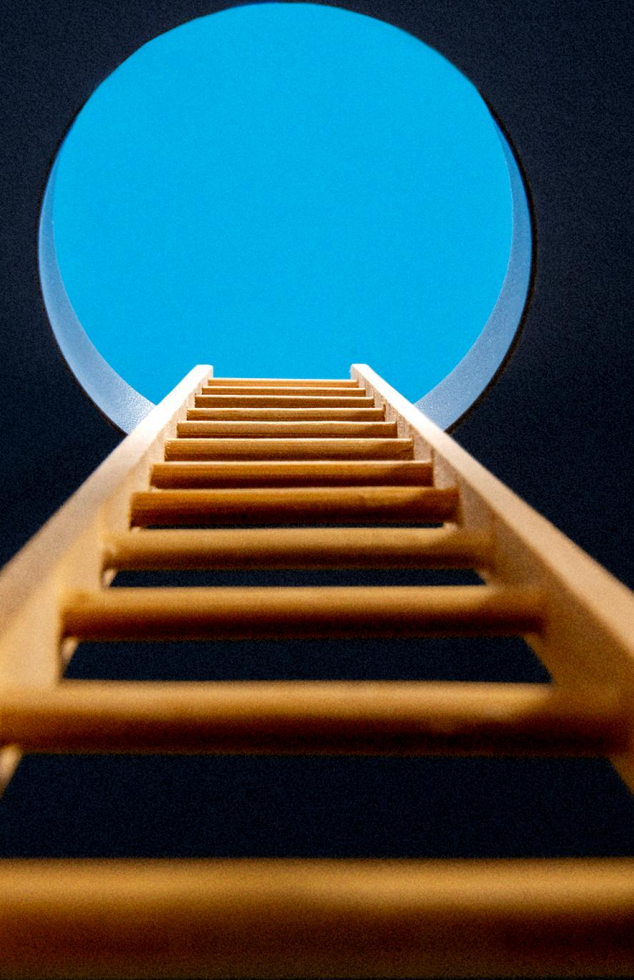


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- Chemical Strategy for Sustainability: “ensuring that all chemicals are used more safely and sustainably, promoting that ... substances of concern are minimised and substituted as far as possible, and phasing out the most harmful ones for non-essential societal use, in particular in consumer products”
- REACH “safety net” vs “Sustainability norm”



ESPR Working Plan







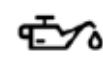





Intermediary products

- iron and steel;
- aluminium;
- chemicals

Final products

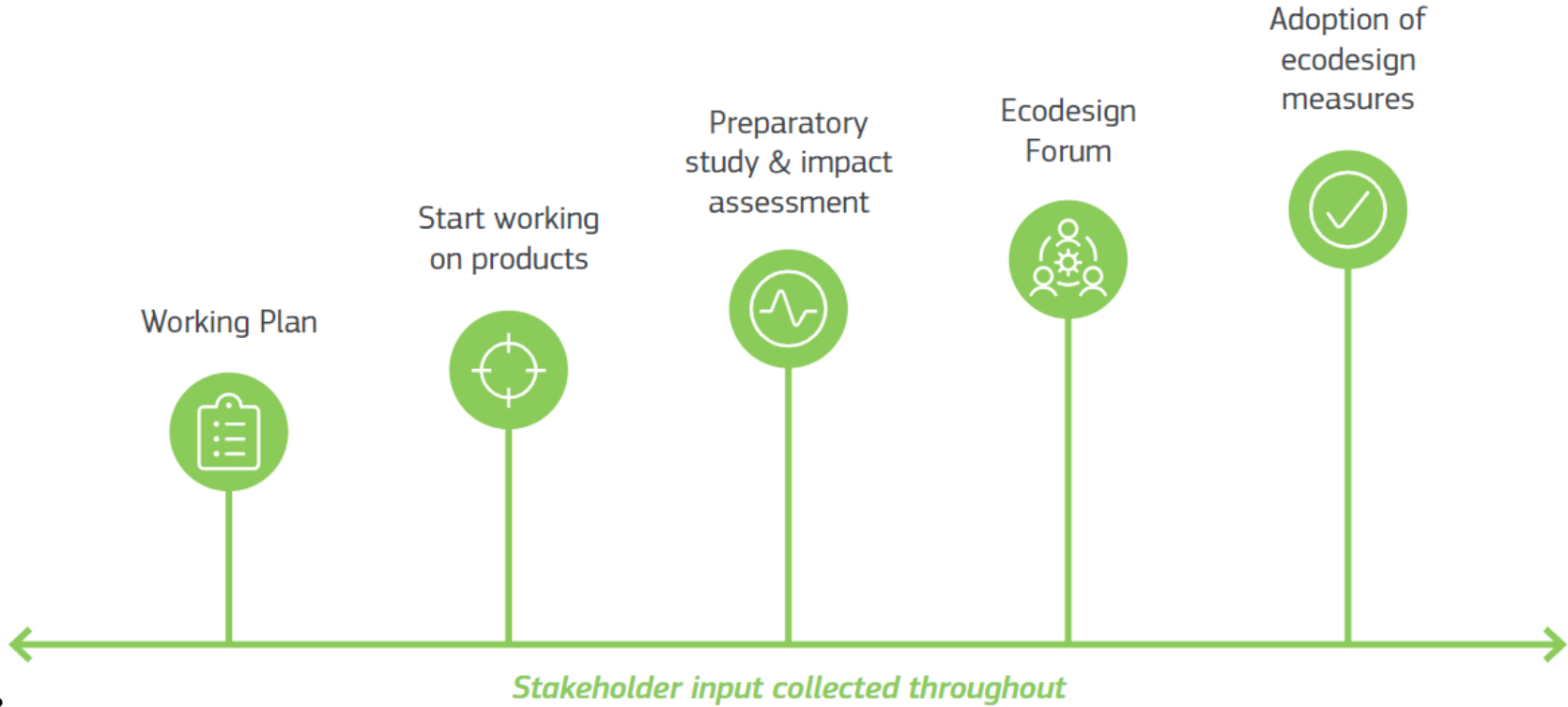
- textiles, in particular garments and footwear;
- furniture, including mattresses;
- tyres;
- detergents;
- paints;
- lubricants;
- energy related products
- ICT

„Preliminary“ Study JRC

	WATER	AIR	SOIL	BIODIVERSITY	WASTE	CLIMATE CHANGE	ENERGY USE	HUMAN TOXICITY	MATERIAL EFFICIENCY	LIFETIME EXTENTION	STRATEGIC AUTONOMY
Score 43 TEXTILES and FOOTWEAR 	5	2	4	4	5	5	5	3	5	5	1
Score 30 FURNITURE 	1	3	3	3	4	3	3	2	3	5	1
Score 30 CERAMICS PRODUCTS 	3	3	3	3	3	4	4	1	3	3	1
Score 30 TYRES 	3	4	3	3	3	3	3	2	3	3	5
Score 28 DETERGENTS 	4	2	1	4	3	3	3	2	3	3	1
Score 26 BED MATTRESSES 	1	3	1	2	5	3	3	2	3	3	2
Score 24 LUBRICANTS 	2	2	2	2	2	3	3	2	3	3	2
Score 24 PAINTS 	3	3	2	3	3	2	2	2	3	1	3
Score 23 COSMETICS 	4	2	1	4	3	2	1	2	3	1	1
Score 22 TOYS 	1	1	1	1	3	2	2	3	3	5	1
Score 21 FISHING GEARS 	4	1	1	4	3	2	1	1	3	1	1
Score 18 ABSORBENT HYGIENE PRODUCTS 	2	1	2	2	4	2	2	1	1	1	1

Classification: Internal

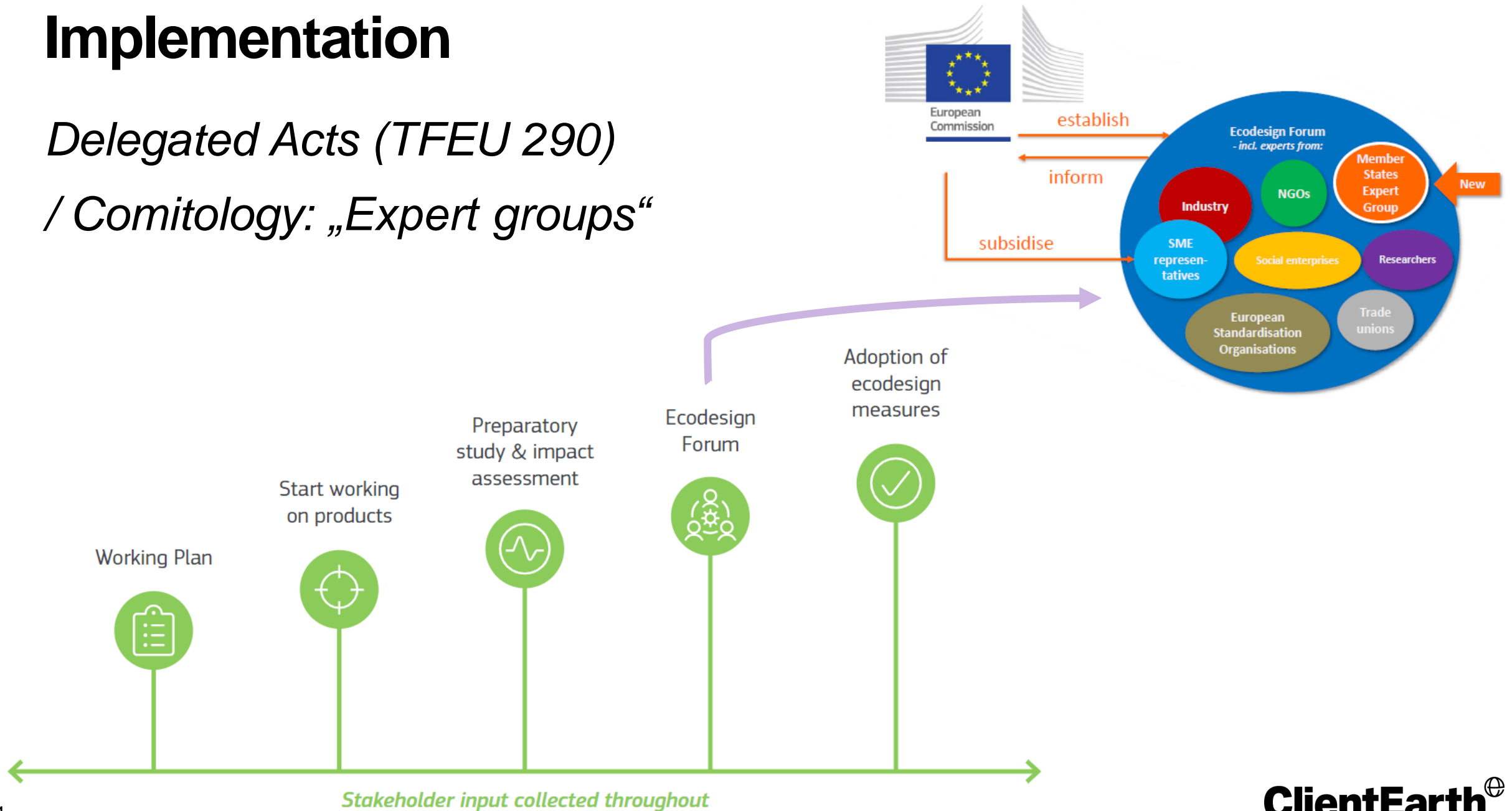
Implementation

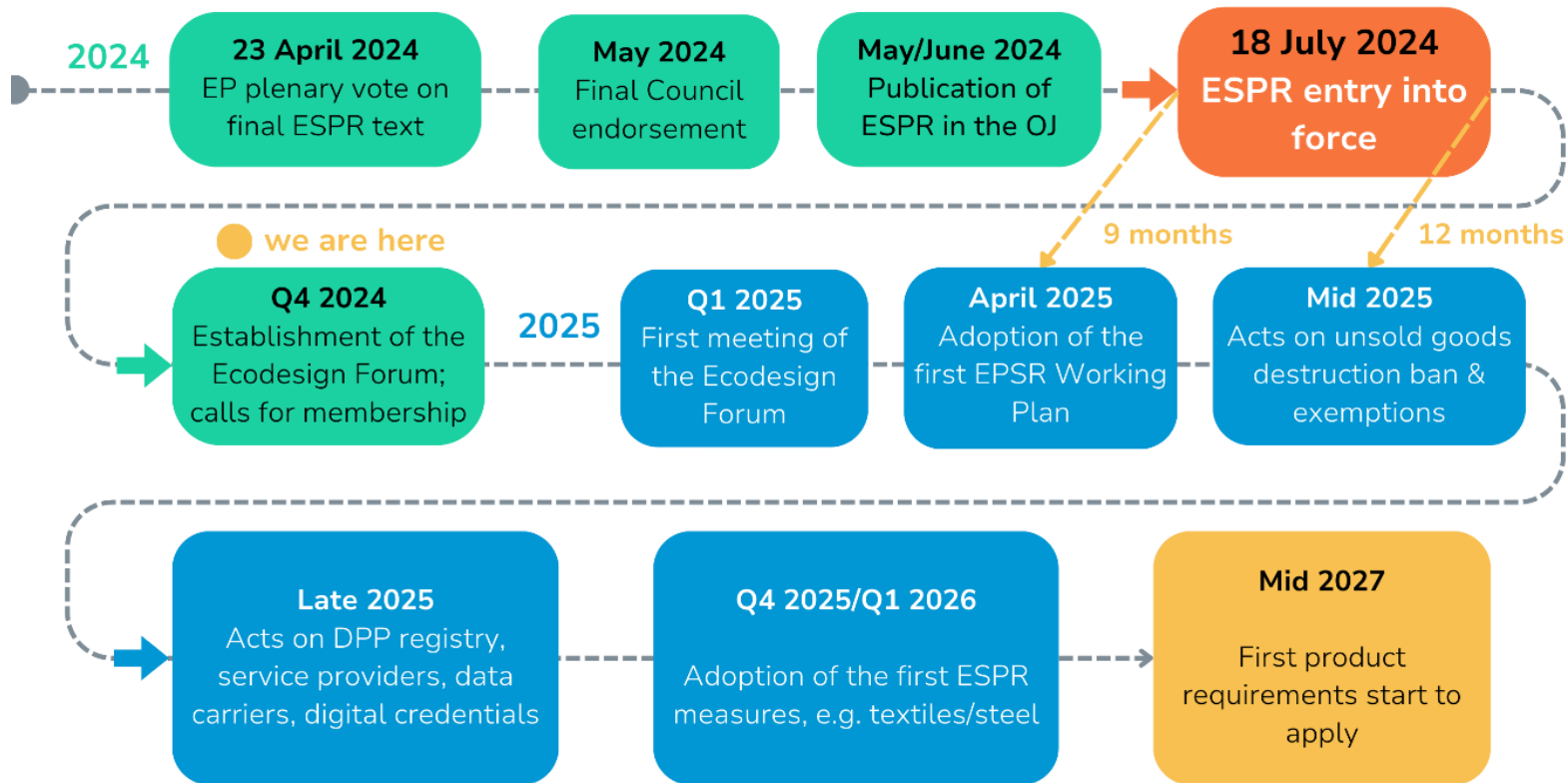


Implementation

Delegated Acts (TFEU 290)

/ Comitology: „Expert groups“





Last updated 2 October 2024
based on European Commission comments



Challenges & the way forward

Inherent complexity v resource constraints

Transformation need v ignorance

„Sustainability as norm“ v age of competitiveness

Thank you!

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