

## CALL FOR EVIDENCE FOR AN INITIATIVE (without an impact assessment)

This document aims to inform the public and stakeholders about the Commission's work, so they can provide feedback and participate effectively in consultation activities.

We ask these groups to provide views on the Commission's understanding of the problem and possible solutions, and to give us any relevant information they may have.

<b>TITLE OF THE INITIATIVE</b>	New product priorities for Ecodesign for Sustainable Products
<b>LEAD DG – RESPONSIBLE UNIT</b>	DG ENV (UNIT B4, Sustainable Products) DG GROW (UNIT I3, Green and Circular Economy) DG ENER (UNIT B3, Buildings and Products)
<b>LIKELY TYPE OF INITIATIVE</b>	To be confirmed.
<b>INDICATIVE TIMING</b>	Q1-2024 (tbc)
<b>ADDITIONAL INFORMATION</b>	<a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en</a> <a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13682-New-product-priorities-for-Ecodesign-for-Sustainable-Products_en">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13682-New-product-priorities-for-Ecodesign-for-Sustainable-Products_en</a>

*This document is for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by this document, including its timing, are subject to change.*

### A. Political context, problem definition and subsidiarity check

#### Political context

On 30 March 2022, the Commission adopted a [proposal for a Regulation on Ecodesign for Sustainable Products](#). The proposal – known as the ‘ESPR’ – delivers on the commitments made in both the [EU Green Deal](#) and the [Circular Economy Action Plan](#) to make the EU regulatory framework fit for a sustainable future and to ensure that products placed on the EU market become increasingly sustainable.

The ESPR proposal aims to reduce the environmental impacts of products across their life cycles and to improve the functioning of the EU’s internal market. It proposes to do this by building on the successful approach pioneered under the current [Ecodesign Directive 2009/125/EC](#), which applies to energy-related products only. It proposes to extend the Ecodesign Directive to cover a very broad range of physical products and to strengthen its provisions. This would enable the ESPR to set a range of far-reaching performance and information-related requirements – known as ‘ecodesign requirements’ – for specific product groups, to improve product circularity, energy performance and other environmental sustainability aspects. For groups of products that share a set of common characteristics, horizontal rules could be set. The proposal will enable ecodesign requirements to be set on a wide range of aspects, including:

- product durability, reusability, upgradability and reparability
- the presence of substances that hinder circularity
- energy and resource efficiency
- recycled content
- remanufacturing and recycling
- carbon and environmental footprints
- information requirements, including a Digital Product Passport.

The ESPR proposal provides a general framework for these rules, with specific product requirements to be set at a later stage. Based on the criteria set out in its **Article 16**, the proposal identifies the need to **prioritise product requirements**, once the ESPR is in place, in the form of a regularly updated working plan.

To prepare for smooth implementation once the ESPR enters into force, and to ensure that the right priorities are

set in a transparent and inclusive way, the [Communication on making sustainable products the norm](#) announced that the Commission would consult the public on what the new product priorities under the ESPR should be.

This consultation focuses on identifying 'new' products and horizontal measures that are not currently within the scope of [Ecodesign Directive 2009/125/EC](#) (which covers energy-related products only). The future ESPR working plan will cover *both* new products and energy-related products.

The Commission will carry out a separate initiative to prioritise requirements for energy-related products. This will take into account (amongst other aspects) the progress made in implementing the [Ecodesign and Energy Labelling Working Plan 2022-2024](#), which was also adopted on 30 March 2022.

Finally, given the wide scope of the ESPR, it should also be noted that some products covered by it will also be subject to separate product-specific legislation. For these products, as a general principle the ESPR will only intervene when the environmental sustainability dimensions of those products cannot be fully and appropriately addressed by other instruments.

## Problem the initiative aims to tackle

Current consumption and production patterns are not sustainable and current EU product and internal market rules do not adequately address the issue of sustainability. This leads to increasingly divergent national rules on product sustainability. The ESPR proposal aims to tackle this problem by setting product-specific rules and rules for groups of products with common characteristics to ensure that products placed on the EU market become increasingly sustainable.

This initiative is part of the preparatory work needed to identify what the ESPR's first priorities should be. The results will shape the first working plan, once the framework legislation is in place.

## Basis for EU action (legal basis and subsidiarity check)

### Legal basis

The legal basis of the ESPR proposal is Article 114 of the Treaty on the Functioning of the EU (internal market). This initiative is also indirectly related to Article 16 of the ESPR proposal on prioritisation and planning, which obliges the Commission to adopt and regularly update a working plan.

## Practical need for EU action

Subsidiarity aspects and the EU added value of the ESPR are described in detail in the [explanatory memorandum of the ESPR proposal](#), as well as in the related [impact assessment](#). In brief, to reduce the current environmental impacts of products, ensure a harmonised and well-functioning internal market across all Member States and a level playing field for businesses operating on the internal market, it is essential to put in place a common set of rules. The rules should include product requirements and the obligation on manufacturers to provide reliable information to users. Without an effective EU-level initiative, the problems identified in the impact assessment will not be tackled fully and consistently across the EU. Although regulating the environmental sustainability of products at national level (which is already taking place in some Member States) brings certain benefits from an environmental point of view, the lack of EU-wide rules will inevitably further fragment the internal market and further complicate consumer choice.

## B. What does the initiative aim to achieve and how

To ensure the ESPR is implemented properly, the Commission has begun preparatory work to identify what the first priority products and horizontal measures under the ESPR should be.

The purpose of this consultation is for the Commission to seek feedback on:

- whether the products and horizontal measures identified as potential priorities under the ESPR are the best;
- the order of priority in which these products should be tackled;
- the most relevant aspect(s), per product/horizontal measure, to tackle under the ESPR;
- the estimated potential for improving the product aspects identified by the ESPR proposal from an environmental point of view, per product/horizontal measure;
- the level of detail for each product/horizontal measure at which requirements under the ESPR should be set (i.e. the level at which rules should be set);

- (in general) environmental and circularity aspects of the related value chains; how the value chains operate; how to best to ensure that future rules under the ESPR are technically feasible and can be implemented.

The consultation carried out as part of this initiative builds on preliminary assessments carried out by the Commission's Joint Research Centre (see [here](#)). In the context of these preliminary assessments, and taking Article 16 of the ESPR proposal as a key methodological starting point, a number of products and horizontal measures were analysed, based on an assessment of their environmental, sustainability and circularity impacts, what potential for improving the product aspects there might be and the extent to which regulatory gaps exist, amongst other aspects. Based on this, a number of **new products** (including **12 end-use** and **7 intermediary products**) and **horizontal measures** were identified as potentially suitable for first action under the ESPR:

- **End-use products:** *Textiles and Footwear; Furniture; Ceramic Products; Tyres; Detergents; Bed Mattresses; Lubricants; Paints and Varnishes; Cosmetic Products; Toys; Fishing Nets and Gears; Absorbent Hygiene Products;*
- **Intermediary products:** *Iron and Steel; Non-Ferrous Metals; Aluminium; Chemicals; Plastic and Polymers; Paper, Pulp Paper and Boards; Glass;*
- **Horizontal measures:** *Durability; Recyclability; Post-Consumer Recycled Content. (For each horizontal measure, potential provisions via which they could be applied are put forward.)*

**This is a preliminary analysis and does not bind the Commission: it is without prejudice to the final list of products in the first ESPR working plan. The assumptions and findings remain subject to correction and further revision.**

### Likely impacts

The ESPR [impact assessment](#) estimated the potential benefits of extending the product scope. To optimise the potential benefits with the resources available, it is important to identify which products have the highest potential for improvement. The analysis conducted indicates the potential improvement by impact category.

The aim of this preparatory work is to help identify the correct priorities for action under the ESPR in order to achieve the greatest impact.

### Future monitoring

Once adopted, the first working plan should serve as a key monitoring tool under the ESPR as it will set out a list of products and horizontal measures against which regulatory progress can be benchmarked.

The Commission has identified several potential indicators to monitor progress and achievements under the ESPR instrument, as set out in the legislative financial statement accompanying the proposal<sup>1</sup>. These include:

- *the number of product groups covered by delegated acts under the ESPR;*
- *the estimated change in energy use, efficiency and water use and efficiency of relevant regulated products;*
- *average life duration of relevant regulated products and circular material use rate.*

The ESPR proposal also makes provision for progress to be evaluated eight years after the rules are applied and it requires the Commission to publish a report on the findings.

## C. Better regulation

### Impact assessment

The Commission carried out an [impact assessment](#) before it adopted the ESPR proposal. It does not plan to carry out a further impact assessment on this follow-up initiative, which is designed to help implement the ESPR. It will prepare detailed impact assessments before adopting all specific and horizontal rules under the ESPR.

### Consultation strategy

In the first stage, the Commission seeks the views of the public via the current public consultation, in particular via responses to the **questionnaire** (please see link on the [consultation page](#)). This questionnaire will be open for 12 weeks and will be available in all languages. Replies to open questions can be made in any of the 24 official EU languages. The results will be assessed when the consultation period ends and the Commission will

<sup>1</sup> See 'Indicators of performance', Section 1.4.4, Legislative Financial Statement, COM(2022) 142 final.

publish a factual summary report, followed by a more detailed synopsis report. The results will feed into preparation of the new product priorities for Ecodesign for Sustainable Products.

Following this first online consultation, the Commission will run targeted consultation exercises, planned for the second quarter of 2023.

In addition, and in continuation of the successful Consultation Forum set up under the current Ecodesign Directive, an Ecodesign Forum will be set up once the ESPR enters into force. The Forum will have a balanced participation of Member State representatives and all interested parties such as industry, small and medium-sized enterprises and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations. As one of the functions of the Ecodesign Forum will be to provide expertise to the Commission on the working plan, the results of this consultation will be particularly relevant to the Forum's work.

Finally, as set out in the ESPR proposal, the Commission will carry out further rounds of consultation and detailed impact assessments before adopting all specific and horizontal rules under the ESPR. These will be additional opportunities for assessments.

### **Why we are consulting?**

The purpose of this consultation is to seek the views of the general public and interested stakeholders on what the priorities under the future ESPR should be, to refine preliminary assessments made by the Commission's Joint Research Centre, close information gaps, help build consensus on future action under the ESPR and help prepare for a smooth implementation once it enters into force.

### **Target audience**

The consultation is likely to be of interest for the general public, authorities, industry stakeholders, academics, NGOs and standardisation bodies, both within and outside the EU.

In line with the European Commission's Better Regulation policy to develop initiatives underpinned by the best available knowledge, we also invite scientific researchers, academic organisations, learned societies, and scientific associations with expertise in the technical and policy fields linked to the initiative, to submit published and pre-print scientific research, analyses and data. We are particularly interested in submissions that synthesise the current state of knowledge in this field.