Position Paper

20 October 2025

EuroCommerce Response to the French TRIS Notification on PFAS

Introduction

This is a response to the Decree notified by France (2025/0431/FR) implementing the national PFAS restriction. EuroCommerce **fully supports the objective of restricting PFAS to protect human health and the environment**; however, our concern lies in ensuring enforceability, maintaining a level playing field, and achieving harmonised rules across Member States to avoid fragmentation of the Single Market. The unilateral restriction proposed by France, while an EU-wide PFAS restriction is still under development, risks creating trade barriers and duplicating compliance efforts, as companies would need to adapt first to the French requirements and later to the EU specifications. The draft decree is being introduced at a time when several critical aspects of the PFAS discussion remain unresolved—particularly regarding analytical methods—raising concerns about enforceability and the ability to verify compliance. Furthermore, provisions such as the definition of "placing on the market," rules on stock disposal, treatment of recycled and second-life products, and the distinction between intentional and unintentional PFAS presence are impractical, and risk diverging from existing or forthcoming EU approaches. Finally, the proposed entry into force on 1 January 2026 leaves companies with very limited time to adjust operations and ensure compliance. **Therefore, among other essential clarifications we seek, we strongly advocate deferring the decree's implementation by 12 months (Directive 2015/1535).**

A. Compatibility with the REACH Regulation

REACH, adopted on the basis of Article 114 TFEU, is a core element of the EU's internal market framework for chemicals, aiming to ensure both a high level of protection and the free circulation of compliant substances and products throughout the Union. Consequently, national initiatives introducing additional restrictions or disclosure requirements on substances already harmonised under REACH may jeopardise the uniform application of EU law and the objective of market integration pursued by the Treaty.

Impact: Article 128(1) REACH ("Freedom of movement") explicitly provides that Member States shall not prohibit, restrict, or prevent the manufacture, import, placing on the market, or use of a substance (on its own, in a mixture, or in an article) that falls within the scope of REACH and complies with its requirements. The proposed national PFAS restrictions risk contravening this provision by imposing additional obligations on substances already subject to harmonized EU-level regulation (e.g. PFOS, PFOA, C9-C14, PFHxA).

Although Article 128(2) REACH allows Member States to adopt national measures aimed at protecting human health or the environment, this power is limited to areas not harmonized under REACH. Given

that certain PFAS are already covered under REACH (and other EU regulations such as POPs), the proposed French measures appear to go beyond the discretion afforded to Member States.

Furthermore, Article 129 REACH ("Safeguard Clause") provides a specific mechanism for Member States to adopt provisional protective measures if a substance poses a risk to human health or the environment, even when it complies with REACH. However, this clause requires a formal procedure — including notification to the European Commission and other Member States — which is unclear whether it has been followed.

Comparable precedents illustrate the risks of national action in areas already harmonised under REACH. For instance, in the French draft Order on substances with endocrine-disrupting properties, the European Commission cautioned that establishing a national list could pre-empt or conflict with ongoing EU harmonisation work under REACH and the CLP Regulation. The Commission noted that many substances identified by France were already classified as Substances of Very High Concern (SVHCs) and that duplicating obligations would hinder the free movement of goods. Similarly, in the French draft Order on mineral oils in packaging and printed matter, the Commission referred to the EFTA Court's judgment in E-9/16 (EFTA Surveillance Authority v. Norway), confirming that national restrictions on chemicals in harmonised fields must trigger a restriction procedure under Article 69(4) REACH and cannot be maintained contrary to its outcome.

Solution: We recommend that the French authorities review the proposed decree in light of REACH to ensure compatibility with the EU legal framework. Specifically, the decree should clarify that national provisions will not apply where harmonized EU measures already exist, thus respecting the primacy of EU law and preventing fragmentation of the Single Market.

B. Enforcement scope

Compliance is formally required for thousands of PFASs, many of which cannot currently be measured due to the absence of analytical standards. Moreover, the newly proposed limits differ substantially from the existing patchwork of EU PFAS restrictions (e.g., 25 ppb total for specific PFAS substances and their salts, 1000 ppb total for specific PFAS-related substances, and 260 ppb total for other PFAS-related substances), leading to technical complexity and legal uncertainty upon implementation.

Impact: There is no official target list tailored to the type of matrix, creating risks of inconsistency and misaligned laboratory results. Furthermore, the divergence between the proposed limits in France and those established under POPs and REACH generates regulatory fragmentation and constitutes a barrier to the free movement of goods within the internal market, undermining the principle of mutual recognition. (See Annex I)

Solution: We recommend that a master list of substances is published to facilitate both compliance and enforcement, similar to the approach currently applied for the French list of PFAS substances subject to fees under Article L. 512-1 of the Environmental Code. In addition, as discussed above, we consider it necessary to include in the body of the French texts the exclusion of substances already covered by the REACH and POP Regulations to prevent Single Market fragmentation.

C. Proposed thresholds and legal uncertainty

Implementing the proposed U- PFAS restriction proposal limits in France by 1 January 2026 would place French policy significantly out of step with the EU Single Market and international markets that already regulate the full class of PFAS. There is also uncertainty as to whether for the 50ppm threshold for PFAS including polymers, refers to the measurement of Total Organic Fluorine (TOF). This is not explicitly stated in the text.

Impact: Given the very short timeframe between decree proposal (August 2025) and expected adoption (December 2025), which would require implementation just months after introduction and several years before harmonised EU limits take effect, we anticipate risk of noncompliance, even among companies that have proactively phased out the intentional presence of PFAS in their products.

Solution: We recommend initially prohibiting the intentional use of PFAS in products manufactured from 1 January 2026, using a 100 ppm total organic fluorine (TOF) limit, which could then be reduced to 50 ppm TOF from 1 January 2027. This phased approach aligns with existing PFAS restrictions in textile articles, such as those implemented in California (2022) and Vermont (2025), and is largely consistent with recent Danish legislation, which sets a 50 ppm total fluorine limit starting 1 July 2026.

While we would support a single threshold based on total fluorine for practicality of compliance, this still raises concerns since not all fluorine compounds are PFAS. Therefore, we suggest incorporating the wording from the REACH universal restriction proposal on PFAS into the French bill, specifically: ***If total fluorine exceeds 50 mg F/kg, the manufacturer, importer, or downstream user shall, upon request, provide to the enforcement authorities proof of whether the measured fluorine content originates from PFASs or non-PFASs***.

D. No consideration of cross-contamination

Due to the high persistence and historical widespread use of PFAS, trace amounts are commonly present in background levels and are prone to cross-contamination during manufacturing, transport, or via environmental exposure—factors largely beyond the control of retail companies. This happens while new analytical methods with higher detection capabilities are being adopted. For instance, EN 17681-1:2025 will enter into force in November 2025 and recent studies show that detectable PFAS quantities can increase by up to 1300 times after hydrolysis of precursors, compared to levels detected using traditional methods[1].

Impact: Individual PFAS may exceed 25 ppb in products even where no PFAS has been intentionally used.

Solution: The draft decree's proposed ppb-level thresholds for PFAS measured via targeted analysis should be adopted in line with EU-wide legislation, allowing industry sufficient time to manage cross-contamination, ensure compliance, and enable commercial laboratories to reliably measure at these very low levels.

E. Validated Analysis Methodologies

It is imperative that analytical methods to test PFAS for all products under this decree **exist** and that they are **specified**. There are currently not fully validated and harmonised testing methodologies for all PFAS and relevant products and matrixes. Any mandatory analysis methods/reference standards (including the required quantification limits) that are suitable for detecting PFAS and are the market standard should be defined. Existing methods are very limited (e.g. total fluorine content for textile, leather, print, foam (EN 14582:2016); Total fluorine content for metal, plastic, rubber).

Impact: Without existing and specified analytical methods, but also sufficient laboratory capacities, there is a risk of the decree to not be successfully implemented and that economic operators are unable to place their products on the market.

[1] Vladimir A. Nikiforov, 'Hydrolysis of FTOH precursors, a simple method to account for some of the unknown PFAS', *Chemosphere*, Volume 276, 2021,130044, ISSN 0045-6535, https://doi.org/10.1016/j.chemosphere.2021.130044.

Solution: The decree should specify the analytical methods for all products under the restriction.

F. Management of Existing Stocks

The definition of "placing on the market" is problematic, as in the draft decree it "means supplying or making available, whether in return for payment or free of charge, to a third party." This is not aligned with the EU definition, where placing on the market corresponds to the "first making available".

Impact: As currently drafted, the ban would not only apply to new products from 1 January 2026 but also to products already in circulation, with no sell-through period for pre-2026 stock. This would effectively render thousands of products as waste and contradict the usual legislative practice of providing transitional provisions for stock disposal.

Solution: The restriction should not apply to mixtures and articles placed on the market before the entry into force of the restriction, similar to the REACH restriction on PFHxA, to ensure legal certainty and avoid penalising existing inventories or second-hand markets. **Otherwise, we strongly advocate for 12 months derogation for stock disposal of products and intermediary products.**

G. Consideration of Recycled and Second-Life Products

The law and decree do not consider the following cases:

- Products that are newly manufactured using recycled raw materials which may contain legacy PFAS.
- The resale, donation or refurbished goods, for PFAS containing products that were placed on the market before the entry into force of the decree.

Impact: The measures could discourage circular practices and increase waste. It would also mean that recyclers and circular businesses will need to test and analyse recycled materials for PFAS content, which can significantly add on costs.

Solution: Following the approach in the U-PFAS REACH restriction proposal, recycled or recovered materials should be exempted from the limits, provided the PFAS are legacy substances and not intentionally added. As discussed above, the restriction should not apply to mixtures and articles placed on the market before the entry into force of the restriction.

H. Detection Limits for Finished Products or Components

It is not clear whether detection limits apply to each individual component of a textile garment or footwear (e.g. the rubber sole, the plastic parts, the textile part), or to the finished product as a whole. In this regard, the text refers to textiles, but it is not clear whether this includes footwear, as in the law. Moreover, it is not clear whether those limits apply only to textile parts (such as the upper of a shoe) or to all components, including non-textile materials such as rubber, plastic or metal.

Impact: For some materials such as plastic or metal, there is not yet a recognized test method for measuring organic fluorine content, which limits the ability to assess the compliance of all components.

Solution: the restriction can focus only on textile components.

I. Level Playing Field

The proposed French restriction risks creating significant distortions in the level playing field within the Single Market. While EU-based retailers and wholesalers would be required to comply with the French

decree and face sanctions for non-compliance, large volumes of individual parcels entering the EU through third country e-commerce platforms are subject to minimal checks. These parcels often bypass national enforcement of French-specific rules, as often only general EU legislation is verified at entry points, and no additional checks occur when goods are shipped onward to France.

Impact: The absence of clear accountability for such imports means that third-country sellers are rarely held accountable. In practice, this places a disproportionate compliance burden on EU businesses while leaving major non-EU actors largely unaffected. Introducing divergent national rules without robust enforcement mechanisms for cross-border enforcement of third country imports, undermines fair competition and risks incentivising non-compliant imports.

Solution: Enforcement gaps in third country imports should be addressed to guarantee a level playing field.

J. Divergence from EU Framework

The French approach introduces thresholds, definitions, and analytical requirements that may diverge from existing PFAS restrictions and potentially the the forthcoming EU-wide PFAS restriction.

Impact: This forces companies to repeatedly adapt compliance systems—first to meet French requirements, then to align with EU rules—creating unnecessary costs, operational complexity, and legal uncertainty. Such fragmentation undermines the objective of a harmonised internal market and risks delaying agreement on an EU-wide solution.

Solution: We urge the Commission to ensure that PFAS restrictions are implemented at EU level rather than through fragmented national measures.

Annex I

Substance group	POPs/REACH thresholds	French draft decree's (cumulative) thresholds	Divergence / Market barrier
PFOS	• ≤ 25 ppb for PFOS and salts • ≤ 1000 ppb for PFOS-related substances	• 25 ppb for target PFAS • 250 ppb sum of PFAS • 50 ppm total fluorine	France lowers the threshold from 1000 ppb to 25 ppb for individual "related substances", adds a stricter "sum" limit (250 ppb vs 1000 ppb EU) and a fluorine content criterion.
PFOA	• ≤ 25 ppb for PFOA and salts • ≤ 1000 ppb for PFOA-related substances		France lowers the "related" threshold from 1000 ppb to 25 ppb, adds a stricter "sum" limit (250 ppb vs 1000 ppb EU) and a fluorine cap, conflicting with POPs harmonisation.
C9–C14 PFCAs	• ≤ 25 ppb for each acid and salts • ≤ 260 ppb for the sum of related substances		French limits conflict with the POPs thresholds, in particular lowering the threshold from 1000 ppb to 25 ppb for individual "related substances", replacing the **260 ppb sum** with **250 ppb sum across all C9-C14 PFCAS**, and adding a fluorine cap.
PFHxS	• ≤ 25 ppb for PFHxS and salts • ≤ 1000 ppb for PFHxS-related substances		France lowers the "related" threshold from 1000 ppb to 25 ppb and adds a stricter "sum" limit (250 ppb vs 1000 ppb EU), plus a fluorine cap.
PFHxA (from 10 Oct 2026)	• ≤ 25 ppb for PFHxA and salts • ≤ 1000 ppb for PFHxA-related substances		The restriction on PFHxA is in force but will only enter into effect at EU level in October 2026. This means that France brings forward the date of application of the restriction. In addition, REACH allows 1000 ppb for individual "related substances", but France reduces to 25 ppb and adds a stricter "sum" limit (250 ppb vs 1000 ppb EU), plus a fluorine cap. This undermines harmonisation.