Submission of the European Branded Clothing Association (EBCA) and EuroCommerce on the Bill aimed at reducing the environmental impact of the textile industry
Notification No. 2025/0336/FR

This submission demonstrates that Article 2, paragraphs 11 to 20, of the proposed legislation aimed at reducing the environmental impact of the textile industry (hereinafter to as the **"Bill"**) is contrary to European Union law.

Executive summary

The Bill constitutes a quantitative and discriminatory barrier to entry into the French market, obstructing the free movement of goods and violating Directive 2008/98/EC on Waste by diverting the Extended Producer Responsibility (hereinafter to as the "EPR") financial contribution mechanism from its intended function (I), and because it endangers the environmental ambitions set by the EU and related harmonisation work (II).

I. The Bill constitutes a barrier to entry into the French market

The Bill constitutes a quantitative and discriminatory barrier to entry into the French market, violating both the principle of free movement of goods and Directive 2008/98/EC, which mandates Member States to set cost-effective financial contribution.

1.1 The Bill violates the principle of free movement of goods

Articles 34 and 35 of the Treaty on the Functioning of the European Union (TFEU) prohibit quantitative restrictions on imports and exports. Moreover, measures having an equivalent effect are also prohibited. The jurisprudence of the Court of Justice of the European Union (CJEU) specifies that these measures are those *"capable of hindering, directly or indirectly, actually or potentially, access to the market of a Member State of products originating in other Member States, even if it has neither the object nor the effect of treating goods coming from other Member States less favourably" (judgment of 21 December 2023, CDIL, C-96/22, paragraph 33).*

- *Analysis of Proposed Measures:*

The French Bill establishes specific requirements for EPR, setting a minimum for penalties ranging from **€5** in 2025 to **€10** in 2030 per product. This increases the EPR financial contribution amount by **+6,500%** to **+57,700%** for the targeted producers, according to the thresholds decided by the regulatory authority.

- *Impact on the Free Movement of Goods:*

Hindrance to Market Access:

The EPR requirements and penalties imposed by the Bill create additional obstacles for European producers, increasing production costs and causing distortions in production systems. This hinders the free movement of goods, particularly entry-level and mid-range products, regardless of their sustainability attributes.

As an example, very recently, the Commission brought an action before the Court on 17 July 2025 against France concerning its labelling requirements for products (Triman logo), as the national legislation obliges operators to adapt their products solely to the French market.

Barriers to Entry:

The substantial amounts of the penalties constitute barriers to entry into the French market, amounting to quantitative restrictions. This contradicts the established case law of the CJEU interpreting Article 36 of the TFEU, which stipulates that measures adopted by a Member State must not restrict intra-community trade more than necessary (judgment of 19 October 2016, Deutsche Parkinson Vereinigung eV, C-148/15, paragraph 34-36).

The French Bill, by imposing specific EPR requirements and disproportionate penalties, infringes upon the free movement of goods within the European Union. It obliges operators to adapt their products solely to the French market, thereby creating additional obstacles and distortions in production systems. There are more appropriate and less restrictive options available to achieve the intended environmental performance objectives.

Consequently, the Bill is contrary to Articles 34, 35, and 36 of the TFEU. We urge you to reconsider these measures to ensure compliance with the principles of free movement of goods and intra-community trade.

1.2 The Bill violates Waste Framework Directive 2008/98/EC

Firstly, Article 8, §3 of the Waste Framework Directive stipulates that Member States must respect:

> *"the need to ensure the proper functioning of the internal market"*

However, in this instance, as developed above, the amount of the financial contribution undermines the proper functioning of the internal market and is contrary to Union law.

Secondly, the Bills alters the purpose of the financial contribution, changing it from a cost-covering mechanism to a sanction mechanism:

Article 8a, §4, b) and c) of the Directive mandates that Member States ensure that the financial contribution paid by producers:

> *"do not exceed the costs that are necessary to provide waste management services in a cost-efficient way […]"*

This provision is also included in Article 22. A, §6 of the current draft revision of this Framework Directive.

Hence, the sole purpose of the financial contribution is to finance the services provided by EPR organisations and is not intended as a sanction mechanism.

However and here again, by increasing the financial contribution amount of a range from **+6,500%** to **+57,700%**, the mechanism will be entirely disconnected from the costs of collection, information, and communication of EPR organisations that it is intended to cover in the 2018 Waste Framework Directive and reiterated in the draft revision.

Thus, both by undermining the internal market and by diverting the mechanism of the financial contribution, the Bill is contrary to the Waste Framework Directive.

II. The Bill disregards the objective of improving the environmental impact of the textile and apparel sector

The French requirements, as formulated in the proposed Bill, contradict the objective of harmonisation and complicate the adoption of forthcoming delegated acts.

2.1 The Bill opposes the fundamental European objective of harmonisation

The harmonisation of legislation, based on Articles 114 to 118 of the TFEU, contributes to the establishment and proper functioning of the internal market in which the free movement of goods is guaranteed.

This harmonisation is essential to eliminate distortions arising from disparities between national provisions that distort competition conditions in the internal market.

However, due to the increase in costs and the distortions in production systems that will ensue, the Bill risks creating a fragmentation of the single market that is incompatible with the objective of harmonisation. This fragmentation would be detrimental not only to European producers but also to French consumers, who would face a reduced selection of products and potentially higher prices.

2.2 The Bill opposes the forthcoming adoption of legal instruments

The Bill jeopardises the current environmental ambitions set by the EU and related harmonisation work. Firstly, efforts aimed at harmonising EPR regimes are underway as part of the project to revise the Waste Framework Directive. The project aims to entrust the European Commission with the task of adopting implementing acts that would establish the criteria to modulate the financial contribution based on the Ecodesign for Sustainable Products Regulation (ESPR) methodology (Art. 22. C, §4).

The ultimate objective is to obtain harmonised rules for the financial contribution modulation to ensure the alignment of the financial contribution modulation criteria with product requirements (Art. 22. C, §4). Secondly, harmonisation is also underway concerning eco-design rules. In this regard, Article 4 of Regulation (EU) 2024/1781 (ESPR) also confers on the European Commission the power to adopt delegated acts to supplement this Regulation by setting eco-design requirements. It is also entrusted with the power to develop methodologies for the setting of eco-design requirements (Art. 5, §3).

Furthermore, the Bill also risks contradicting Article 3 of this Regulation (EU) which states that: *“Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the performance requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national performance requirements relating to product parameters referred to in Annex I covered by performance requirements included in such delegated acts.”*

By limiting the possibility for certain products to enter its market, France could infringe upon the free movement of these goods, even though they would comply with forthcoming European regulations. This would not only create an unjustified trade barrier but also a distortion of competition detrimental to the entire internal market.

Thus, while only EU-wide sustainability criteria can enhance the environmental performance of products, the Bill undermines the Commission’s work to define Delegated Acts to address the environmental impacts of products placed on the Union’s market and hence contradicts Article 114 of the TFEU.

Therefore, it is imperative to reconsider these measures to ensure compliance with the principles of free movement of goods and intra-community trade, while respecting the harmonised environmental objectives of the European Union.