



# Extended Producer Responsibility Schemes and Other Measures Related to Textiles Sustainability

Multijurisdictional Overview

September 2020

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# Introduction

Indicated by a continued rise in industry-led initiatives and proposed regulations, sustainability is an increasingly important global consideration for those in the textiles industry. From the Fashion Pact signed by 32 companies (including around 150 brands) in August 2019, to the recent circular economy pledge announced in June 2020, there has been a clear turning of attention to sustainability measures and goals by businesses and industry groups.

Announcements of additional legislation and other national and EU-wide measures, in this area strongly suggest that regulation levels will only increase.

This trend can be seen at the EU level, where Extended Producer Responsibility ("EPR") schemes and other measures are increasingly being developed and implemented, including in relation to textiles sustainability and packaging.

While the particular schemes and associated obligations vary country to country, EPR schemes generally imply that producers take over the financial and/or organisational responsibility for collecting or taking back used goods (or packaging, where the schemes are currently limited to packaging), as well as for sorting and treatment ahead of recycling. Textile EPR schemes in particular provide an incentive for producers to take into account environmental considerations from the design phase to the end-of-life of their products, and support the implementation of the waste hierarchy.

These schemes and measures, as discussed in this alert, are increasingly being imposed against a backdrop of existing measures already established in certain jurisdictions, such as in France and Germany. France, by way of example, first introduced an EPR scheme for textiles in 2007 and, at an EU level, a number of key steps have been taken towards textile sustainability in the announcement and proposed implementation of a number of measures and targets, as identified below.

Notably, with the COVID-19 crisis still ongoing, the European Parliament is keen to ensure that the new European Green Deal ("Green Deal"), which includes a suite of legal and policy measures designed to act as a roadmap for a sustainable economy in the EU, is at the centre of any reconstruction package in order to ensure that stimulating the economy and fighting climate change are complimentary actions.<sup>1</sup>

The goals and objectives behind these initiatives are likely to become more harmonised and generally regulated in the EU, and we are seeing a trend for similar initiatives for textiles elsewhere in the world, in countries such as Brazil and Canada. It is important for textile businesses to have an understanding and awareness of these measures before they are implemented, and for those in the textile industry to be conscious of this direction of travel in order to allow them to take steps to prepare their businesses as appropriate.

As such, this alert provides an overview of some of the key measures and consequences for those in the textiles industry to have on their radar and track as they evolve.

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<sup>1</sup> The European Parliament adopted a resolution on 17 April 2020 in which members of the European parliament stressed that the Green Deal should be at the core of any action taken by the EU to address the economic consequences of the pandemic. More information can be found here:

<https://www.europarl.europa.eu/news/en/headlines/priorities/eu-response-to-coronavirus/20200415IPR77109/covid-19-meps-call-for-massive-recovery-package-and-coronavirus-solidarity-fund>.

## Contents of this Alert

Section 1 gives an overview of the **general trends and developments** in the EU, on a regional and national level, as well as in Brazil and Canada. These include textiles-specific measures in France and Germany, broader actual or proposed packaging initiatives that encompass textile packaging in the UK, Italy and Brazil and regional-specific product initiatives in Spain.

Section 2 sets out the **key takeaways for textile companies and manufacturers, including some initial industry responses**. These include:

- the focus of the EU's sustainability policy measures on reducing waste and increasing the ability to recycle this waste;
- for packaging specifically, that textile companies and manufacturers should consider the reusable and recyclable nature of their packaging and any steps that could be taken to enhance this;
- whether the introduction of a carbon tax will have an impact on textile companies and manufacturers' supply chain;
- the need to keep abreast of EU and national textiles developments and the supply chain entities upon which new regulatory measures may fall;
- the need to keep abreast of developments on the UK side, in particular the UK's post-Brexit position on EPR for textiles and obligations arising under the Green Deal; and of the impact of COVID-19 on the timeframe for the implementation of such regulatory measures and obligations.

Finally, Section 3 covers notable **industry commentary** regarding the proposed measures at the EU level.

## Executive Summary of Country Specific Schemes and Measures for Textiles

Further details of **country-specific schemes and measures for textiles** (and other products where applicable) are set out in the Annex available [here](#). An executive summary of these countries and their respective measures and obligations is set out below:

Country	Measures in place to deal with textiles sustainability	Overview and key obligations relating to textiles sustainability
EU		
1. France	Textiles EPR scheme in place	France has an established EPR scheme that applies to individuals or entities that develop, manufacture, handle, process, sell or import "waste-generating products or elements and materials used in their manufacture".  There are several obligations such persons must fulfil, including (among others) by contributing to setting up mechanisms of prevention and management of any waste produced by their activities. Such persons can either create a collective eco-organisation or set up an approved individual waste-collection system to meet their obligations.
2. UK	No measures currently in place specifically for textiles	The UK government has indicated that it intends to progress its policy proposals relating to packaging for all goods, including textiles, and to introduce an extended EPR scheme for packaging in 2023.

Country	Measures in place to deal with textiles sustainability	Overview and key obligations relating to textiles sustainability
3. Italy	No measures currently in place specifically for textiles	Italy is adopting further waste legislation to align with EU laws. From EPR packaging waste controls for textiles, a number of voluntary local initiatives have been implemented to promote the separate collection of textile waste and used clothing.
4. Spain	Voluntary regional measures in place	Catalonia has a voluntary product environmental quality guarantee labelling system. This system helps to identify more environmentally friendly products, including (but not limited to) textiles, that have certain properties or characteristics that make them more environmentally friendly (in particular most of them being recycled).
5. Germany	Voluntary EPR scheme ("Grüner Knopf" or "Green Button") and other measures in place, including textiles-specific initiatives	<p>Companies in the textile industry can apply for the Green Button certification mark, which they receive in exchange for complying with certain social and environmental requirements.</p> <p>Germany also has a "Partnership for Sustainable Textiles" that was formed in 2014 and has around 120 members from business, government, civil society, unions and standards organisations. The partnership aims to improve the conditions within global textile supply networks</p> <p>Germany also currently intends to introduce a "duty of care" for products (which would also cover textiles) to ban the destruction of returned products for cost reasons</p>
<b>Worldwide</b>		
6. Brazil	Waste sustainability measures and associated obligations in place	<p>While there is no scheme for textiles specifically, Brazil implemented a national policy that requires companies to implement a take-back system for all packaging. The current target for this system is to collect 22% of all products put into the market.</p> <p>Retailers are obligated to provide in-store collector points and manufacturers and importers are obligated to disclose the volume of packaging distributed nationally among their National Association. They must also work together with waste collectors to reach the targets established by the National Agreement on General Packaging.</p>
7. Canada	No measures currently in place specifically for textiles	<p>Canada will likely implement an individual producer responsibility model for resource recovery by 2024, which is expected to apply to textiles.</p> <p>This scheme would require individual "producers" to recapture and engage in a permitted recovery activity on a roughly 1-1 basis for every textile it places on the market in any Canadian province or territory.</p>



# Section 1: Country-Specific EPR Schemes and Sustainability Measures Targeting Textiles

In this section we examine (1) initiatives taken at the EU level; (2) Member States' own initiatives; and (3) similar measures taken elsewhere in the world, specifically in Brazil and Canada.

## 1. EU Initiatives

At EU level, the European Commission ("EC") is now treating the textiles sector as a priority industry under the new Circular Economy Action Plan ("Action Plan") (released on 11 March 2020 as a part of the Green Deal).<sup>2</sup> These new initiatives cover a wide variety of sustainability initiatives and targets and will have certain consequences for textile manufactures and sellers.

In particular, a new comprehensive EU strategy for textiles, the provision of incentives and support for circular materials and production processes, and the enhancement of sorting, re-use and recycling of textiles, have all been proposed, as discussed below. These measures compliment and reflect various EPR schemes that are being introduced or further developed across the EU at a national level.

The Action Plan sets out the proposed development of EU-wide initiatives and rules for the circular economy and is tabled under the Green Deal as part of a broader EU industrial strategy. Crucially, for the textiles industry it highlights the EC's intention to introduce a sustainable product policy and specific initiatives and aims for plastic packaging and the textiles industry, among others. The relevant key takeaways for textile companies on the various measures highlighted in the EC's Communication on the Green Deal and in the new Action Plan are discussed below.<sup>3</sup>

### (a) The Green Deal Targets

- **Product packaging (2030):** The Green Deal will develop requirements to ensure that all packaging in the EU market is reusable or recyclable in an economically viable manner by 2030.
- **Transport emissions (2050):** The Green Deal highlights that a 90% reduction in transport emissions is needed to achieve climate neutrality by 2050. The EC considers that a substantial part of the 75% of inland freight currently carried into the EU by road should shift onto rail and inland waterways.
- **Carbon border tax (2050):** The proposal of a carbon border tax for selected sectors, to reduce the risk of "carbon leakage" by shielding EU companies against cheaper imports from countries with weaker climate policies. We note that this may be a hard proposal to implement, as it cannot discriminate against any trading partner or favour domestically produced goods over imports.

The Green Deal will ultimately rely on the cooperation and willingness of the EU Member States, with the implementation of policies carried out at the national, regional and local level. Notably, Poland is yet to back the deal.

### (b) The Action Plan Initiatives

The Action Plan, released on 11 March 2020 as part of the Green Deal, includes a proposal for a "sustainable product policy legislative initiative", prioritising waste reduction, and building on the already

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<sup>2</sup> The new Action Plan can be accessed here: [https://ec.europa.eu/environment/circular-economy/pdf/new\\_circular\\_economy\\_action\\_plan.pdf](https://ec.europa.eu/environment/circular-economy/pdf/new_circular_economy_action_plan.pdf).

<sup>3</sup> The EC Communication can be accessed here: [https://ec.europa.eu/info/sites/info/files/european-green-deal-communication\\_en.pdf](https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf).

implemented Ecodesign Directive, which at present is only applicable for energy-using and energy-related products.<sup>4</sup>

The Ecodesign Directive will be widened to apply to as broad a range of products as possible. This means that many more manufacturers will need to be mindful at the design stage of the energy consumption and negative environmental impact of their products. The EC intends to establish a number of sustainability principles through legislative proposals, as appropriate, for the following areas:<sup>5</sup>

- improving product **durability, reusability, upgradability and reparability, addressing the presence of hazardous chemicals** in products and increasing their **energy and resource efficiency**;
- increasing **recycled content in products**, while ensuring their performance and safety;
- enabling **remanufacturing and high-quality recycling**;
- reducing **carbon and environmental footprints**;
- restricting **single-use** and countering **premature obsolescence**;
- introducing a **ban on the destruction of unsold durable goods**;
- incentivising **product-as-a-service** or other models where **producers keep the ownership of the product** or the responsibility for its performance through its lifecycle;
- mobilising the potential of **digitalisation** of product information, including solutions such as **digital passports, tagging and watermarks**; and
- rewarding products based on their **different sustainability performance**, including by linking high performance levels to incentives.

In particular, these sustainability principles are considered in more detail in a number of key product value chains.

The most relevant product areas and associated initiatives for textile companies and manufacturers are as follows:

#### (i) **Textiles initiatives**

The EC has proposed a comprehensive textiles strategy, based on input from industry and other stakeholders. The strategy is designed in particular to encourage innovation, boost the EU market for circular and sustainable textiles and address fast fashion. This strategy sets out to, among others:

- apply the sustainable product framework mentioned above to textiles;
- establish incentives for innovative solutions, circular materials and production processes and measures;
- improve levels of sorting, reuse and recycling of textiles through regulatory measures such as extended producer responsibility and innovation; and
- support EU Member States, through the provision of guidance, in meeting separate textile waste collection obligations by 2025.

#### (ii) **Packaging initiatives**

As highlighted above, under the Green Deal the EC is proposing mandatory requirements for recycled content and waste reduction measures in packaging. The Action Plan highlights that the EC intends to apply new "essential requirements" that packaging must meet to be allowed on the EU market. This notably

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<sup>4</sup> The EcoDesign Directive can be accessed here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0125>.

<sup>5</sup> This list can be found on page 6 of the new Action Plan.

includes a focus on encouraging new designs for the re-use and recyclability of packing, including potential restrictions on the use of some packing materials for particular applications.

### (iii) **Plastics initiatives**

Microplastics are also a key focus of the measures relating to plastics, and the EC intends to address the presence of microplastics in the environment by restricting their intentional use and by developing regulatory measures on their unintentional release.

This includes the introduction of processes to increase the capture of microplastics at all relevant stages of products' lifecycle. For textiles specifically, the EC has indicated it will continue to develop methods for measuring unintentionally released microplastics from textiles.

## 2. EU Member State Initiatives

A number of steps have been taken by EU Member States at a national level to introduce and expand EPR schemes in relation to textiles, as well as other initiatives to encourage or require the introduction of sustainability measures. These are summarised below and further detail can be found for each country in the Annex available [here](#).

- **France** has recently amended its requirements for their EPR scheme for textiles, an initiative that encourages companies who develop, manufacture, process, sell or import textile products for the French market to take over the financial and/or organisational responsibility for collecting or taking back used goods, as well as sorting and treatment for their recycling.
- A similar EPR scheme for textiles has recently been proposed for the **UK**.
- In **Italy**, further waste legislation is being adopted to align with EU laws. A number of voluntary local initiatives have also been introduced to promote the separate collection of textile waste and used clothing.
- Several EU nations have also introduced voluntary schemes to encourage or incentive companies to take steps towards sustainability. In **Spain**, the region of Catalonia has introduced a product environmental quality guarantee label. This label is a system for identifying products (and services) that have certain properties or characteristics that make them more environmentally friendly (in particular most of them being recycled).
- The **German** government introduced a voluntary programme the "Grüner Knopf" (Green Button) in September 2019, which is a certification mark for sustainable textiles. Companies in the textile industry are invited to comply with certain social and environmental requirements and then receive a seal (the "green button") in return. Compliance with these requirements is regularly examined by independent auditors and a number of well-known brands have signed up. Previously, a "Partnership for Sustainable Textiles" was formed in 2014 that aims to improve conditions within global supply networks and has around 120 members from business, government, civil society, unions and standards organisations. Looking forward, Germany also currently intends to introduce a duty of care for products (which would also cover textiles) to ban the destruction of returned products for cost reasons.

## 3. Brazil and Canada

Outside of the EU, textile EPR schemes do not appear to be nearly as progressed, although some steps have been taken to implement obligations around packaging, particularly in Brazil. In Canada, the similar take-back steps proposed (albeit for textiles rather than packaging) will place some individual responsibility on producers once implemented.

Whilst there is no EPR scheme in place in **Brazil**, the Federal Law No. 12,305/10<sup>6</sup> established the National Policy on Solid Waste ("PNRS"). The PNRS requires the implementation of a take-back system for items including packaging for "general products" or "products commercialised in general packaging" which includes

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<sup>6</sup> Which is regulated by the Federal Decree No. 7,404/10.

textile products. Generally, manufacturers, importers, retailers and distributors must implement take-back systems under which, for the general packaging take-back system, retailers are obliged to provide an in-store space in which collection points shall be installed.

In **Canada**, there are currently no textile sustainability schemes, such as for textiles EPR. However, textiles are on the list of products to be subject to Canada's individual producer responsibility model for resource recovery. This regulation will likely be implemented in 2024 and would obligate individual "producers" to recapture and engage in a permitted recovery activity on a roughly 1-1 basis for every textile it places on the market in any Canadian province or territory.

Please find further detail of Brazil and Canada's measures in the Annex available [here](#).



## Section 2: Key Considerations for Textile Companies and Manufacturers

A number of the measures mentioned above involve explicit considerations and objectives for the textiles sector. It is currently unclear how each of the EU initiatives will actually be implemented, so companies in the textile industry need to be aware of the relevant policy measures mentioned above and track their development.

The key initial takeaways that should be considered by textiles companies and manufacturers are as follows:

- The EU sustainability policy measures focus on reducing waste and increasing the ability to recycle waste;
- For packaging specifically, it would be prudent for textile companies to consider (if they have not already done so) the reusable and recyclable nature of their packaging and any steps that could be taken to enhance this;
- The intended adjustments to transportation methods for freight and the introduction of a carbon tax may have an impact on textile companies and manufacturers' supply chain;
- Keep abreast of EU and national textiles developments and the supply chain entities upon which any new regulatory measures may fall;
- Proactively engage with other key members of the supply chain to discuss which entities will be responsible for measures relating to textiles sustainability and which entities may require certain information from other entities in order to assist them in complying with their obligations; and
- Keep abreast of the developments on the UK side, in particular the UK's post-Brexit position on EPR for textiles, the Green Deal and the Action Plan.



## Section 3: Notable Industry Commentary

The European Apparel Textile Organisation ("EURATEX"), which represents the European textile and clothing industry, has released a number of comments regarding the proposed measures at the EU level. In particular, EURATEX suggested that legislators should be very prudent about introducing new measures that would directly or indirectly increase costs and regulatory burdens on companies during the current crisis.<sup>7</sup> The economic consequences of COVID-19 for the textiles industry has also led calls for free and fair trade and for ensuring that recovery-boosting measures are prioritised over those that will increase costs.

Additionally, a proposal put forward by the Policy Hub (a joint project in collaboration with Boston Consulting Group and Global Fashion Agenda, the Federation of European Sporting Goods Industry and the Sustainable Apparel Coalition) suggested that the EC and EU Member States should provide tailored support for companies, specifically small and medium sized-enterprises, linked to the circular economy through increased funding. The main objective of such actions would be to encourage re-skilling and to incentivise more sustainable business choices. It is further suggested these could include VAT reductions for certain circular business models.<sup>8</sup>

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<sup>7</sup> More information on these responses can be found here: <https://news.bgfashion.net/article/17070/9/Euratex-presented-the-strategy-for-the-future-of-the-European-textile-and-clothing-industry>

<sup>8</sup> More information can be found here: <https://sourcingjournal.com/topics/sustainability/policy-hub-sustainable-apparel-coalition-fesi-global-fashion-agenda-circular-217669/>



# Annex

## 1. France

### Overview of measures in place to deal with textiles sustainability

France first established an EPR scheme for textiles in 2007. This followed a task force report written for the French government in 2006 that initially only identified persons who place textiles on the market and those who distribute textiles as contributors for waste treatment and recycling. French EPR has since broadened in its application, as discussed below. Following the requirements of the previous EU Action Plan in 2015, in February 2020 the French Parliament enacted a new law relating to waste management and the circular economy. This law amends certain provisions of environmental law and in particular, modifies the French EPR scheme. The French EPR scheme defines the duties of textile producers that must contribute to the prevention and management of waste that their activities generate. We understand that this means that French EPR applies to companies who develop, manufacture, process, sell or import textile products for the French market.

Additionally, France also has an accreditation for both eco-organisations and individual waste-collection systems that is valid for a maximum of six years and that can be subject to renewal, provided for by French ministerial decree.

### French EPR

#### Recent developments

Previously, for textile production, French EPR was only applicable to producers manufacturing textiles such as new (unused) clothing material, new shoes and new household linen for consumers. Under the new French law, a "producer" is any natural or legal person that develops, manufactures, handles, processes, sells or imports waste-generating products or elements and materials used in their manufacture.<sup>9</sup>

From 1 January 2020, the producers of "new" textile goods for houses **also** fall under the scope of French EPR. This means that producers of household textile goods, **with the exception of** producers of furniture or manufacturers who decorate or protect items of furniture, are now covered by French EPR rules.<sup>10</sup>

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<sup>9</sup> Law no. 2020-105, 10 February 2020 Art. 62 (modifiant Art. L. 541-10, I du code de l'environnement): [French] "En application du principe de responsabilité élargie du producteur, il peut être fait obligation à toute personne physique ou morale qui élabore, fabrique, manipule, traite, vend ou importe des produits générateurs de déchets ou des éléments et matériaux entrant dans leur fabrication, dite producteur au sens de la présente sous-section, de pourvoir ou de contribuer à la prévention et à la gestion des déchets qui en proviennent ainsi que d'adopter une démarche d'écoconception des produits, de favoriser l'allongement de la durée de vie desdits produits en assurant au mieux à l'ensemble des réparateurs professionnels et particuliers concernés la disponibilité des moyens indispensables à une maintenance efficiente, de soutenir les réseaux de réemploi, de réutilisation et de réparation tels que ceux gérés par les structures de l'économie sociale et solidaire ou favorisant l'insertion par l'emploi, de contribuer à des projets d'aide au développement en matière de collecte et de traitement de leurs déchets et de développer le recyclage des déchets issus des produits." [English] "In application of the principle of extended producer responsibility, any natural or legal person who develops, manufactures, handles, processes, sells or imports waste-generating products or elements and materials used in their manufacture may be required, known as the producer, within the meaning of this sub-section, to provide for or contribute to the prevention and management of waste resulting therefrom as well as to adopt an eco-design approach for products, to promote the extension of the lifespan of said products by ensuring that all professional and private repairers concerned have the availability of the means essential for efficient maintenance, to support reuse, reuse and repair networks such as those managed by social economy structures and solidarity or promoting integration through employment, to contribute to development assistance projects in terms of collecting and processing their waste and develop the recycling of product waste."

<sup>10</sup> Art. L. 541-10-1, 11°.

Furthermore, from 1 January 2022, any natural or legal person that facilitates the distance selling or delivery of products falling within the scope of French EPR through a market place, online platform or similar device, should also contribute to waste prevention and management.<sup>11</sup>

### Obligations for manufacturers and producers

Under the French law, producers of the products highlighted above are obligated to:<sup>12</sup>

- contribute to setting up mechanisms of prevention and management of any waste produced by their activities;
- have an eco-design approach while manufacturing their products; and
- favour the production of durable goods, by:
  - ensuring that the resources for professional and non-professional repairers are available;
  - supporting re-use and repair networks;
  - contributing to development aid projects for waste collection and treatment; and
  - developing waste recycling.

In order to fulfil their obligations, companies in the textile industry have two options. They may:<sup>13</sup>

1. **Collectively create an eco-organisation.** Companies would transfer their duties and pay a financial contribution to this eco-organisation. This financial contribution covers the costs referred to in the law, including costs for preventing, collecting, transporting and processing wastes. It also covers the transfer and management costs for the necessary data for monitoring the sector and any other necessary costs for achieving the goals set by the ministerial order; or
2. **Alternatively, companies may set up an approved individual waste-collection system.** In this case, such companies shall ensure a free of charge "*take-back*" at any location of the national territory, and offer a premium for returning the products, in order to prevent the abandonment of waste. Their product shall have a marking indicating their provenance.

Any producer, as defined above, must design and implement a prevention and eco-design plan in order to reduce the use of non-renewable resources, to increase the use of recycled material and to improve the recyclability of its products in the treatment facilities located on the national territory. This plan can be individual or common to several producers. It can be designed by the eco-organisation (as discussed below) for all of its members.

### Accreditation

On another note, a French ministerial decree provides an accreditation for both eco-organisations and individual waste-collection systems that is valid for a maximum of six years and that can be subject to renewal.

In order to get this accreditation, any eco-organisations and individual waste-collection systems need to demonstrate they have the technical capability, governance, and financial and organisational means to meet the requirements set by the ministerial order.<sup>14</sup> The French eco-organisation "*l'eco-organisme du textile, du linge, de la chaussure*" ("**Eco TLC**") is accredited for the textile industry.<sup>15</sup> Eco-organisations such as Eco TLC shall also provide financial guarantees in order to cover the above costs, in case these organisations fail.<sup>16</sup>

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<sup>11</sup> Art. L. 541-10-9.

<sup>12</sup> Art. L. 541-10, I.

<sup>13</sup> Art. L. 541-10, I, unnumbered. par. 2.

<sup>14</sup> Art. L. 541-10, I, II.

<sup>15</sup> Ministerial decree of 20<sup>th</sup> Dec. 2019.

<sup>16</sup> Art. L. 541-10-7.

In our experience, we understand that most companies choose to join Eco TLC, as this is a more straightforward process than a company establishing its own program.



## 2. UK

### Overview of measures in place to deal with textiles sustainability

The UK does not currently have an EPR Scheme in place. The UK Government previously confirmed in July 2019 that it intended to progress its policy proposals relating to packaging and to introduce an extended EPR scheme for packaging in 2023.<sup>17</sup> The government also noted that it would undertake further analysis and continue to engage with stakeholders to develop more detailed proposals.

From the UK government's Budget announced on 11 March 2020, it was confirmed that the Budget includes a GBP 700,000 commitment to establish a UK EPR scheme, designed to encourage producers to increase the recyclability of their packaging and reduce the amounts of unnecessary packaging used for their products.<sup>18</sup> We understand that this GBP 700,000 will be used to develop the UK's IT capability to administer the EPR scheme.<sup>19</sup> Separately, the government is also investing GBP 7.2 million in developing a national system to track the movement of waste across the economy.<sup>20</sup>

### Key takeaways for textiles sustainability

Now that the UK has withdrawn from the EU, it is currently unclear whether the UK will continue to abide by the EU measures outlined in the Green Deal and associated Action Plan. One of the global ambitions of the Action Plan in particular is to ensure that Free Trade Agreements ("FTAs") will reflect the amplified objectives of the circular economy. Going forward, this means that UK businesses may be subject indirectly to legislation and standards established on an EU level, if the UK and the EU ultimately conclude an FTA for their post-Brexit trade relationship.

On a domestic level, the UK government is yet to release any official statements regarding the Green Deal, but it will likely be subject to scrutiny by the government. In particular, the proposed carbon tax policy was discussed by a House of Lords Select Committee on 26 February 2020.<sup>21</sup>

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<sup>17</sup> Further information on the steps proposed by the government can be found here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/819467/epr-consult-sum-resp.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819467/epr-consult-sum-resp.pdf).

<sup>18</sup> As reported by Packaging Gateway in a news article available here: <https://www.packaging-gateway.com/news/uk-budget-sets-out-details-of-plastic-packaging-tax/>.

<sup>19</sup> As confirmed in the UK 2020 Budget, on page 82, available here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/871799/Budget\\_2020\\_Web\\_Accessible\\_Complete.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/871799/Budget_2020_Web_Accessible_Complete.pdf).

<sup>20</sup> As confirmed in the UK 2020 Budget, on page 82, available here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/871799/Budget\\_2020\\_Web\\_Accessible\\_Complete.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/871799/Budget_2020_Web_Accessible_Complete.pdf)

<sup>21</sup> Further information on this discussion is available here: <https://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-energy-environment-subcommittee/news-parliament-2017/eu-green-deal-evidence-one/>.

### 3. Italy

#### Overview of measures in place to deal with textiles sustainability

Italy does not currently have any measures in place to deal with textiles sustainability, such as an EPR scheme for textiles. An EPR scheme for packaging waste does currently apply to companies in the textile industry.

#### Key takeaways for textile sustainability

The Italian Government is implementing some specific European Union acts, including Directive 2018/851, which requires Member States to advance their waste management systems into the management of sustainable material, to improve the efficiency of resource use, and to ensure that waste is valued as a resource.

A number of voluntary local initiatives have been implemented, primarily aimed at fostering and promoting the separate collection of textile waste and used clothing, but also intended to achieve environmental, economic and social advantages.



## 4. Spain

### Overview of measures in place to deal with textiles sustainability

Spain does not currently have any nation-wide measures in place to deal with textiles sustainability, such as an EPR scheme for textiles. There is a voluntary product environmental quality guarantee label in place in Catalonia. This label is a system for identifying those products and services that have certain properties or characteristics that make them more environmentally friendly (such as most of these properties being recycled) and it is coordinated by the Department of Territory and Sustainability of the Government of Catalonia.

### Key takeaways for textile sustainability

Despite not being limited to the textile products, if those products use some of the listed substances categories, they may apply for the label. The substances most likely to be used in clothing or other textile products are:

- recycled rubber
- recycled plastic
- recycled glass
- compostable material

Links have been included above through which additional information regarding these categories (i.e. the environmental criteria for the award of the label, the submission procedure, etc.) may be found. Please note that it is mainly in Spanish and/or Catalan.<sup>22</sup>

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<sup>22</sup> For further information, see the general website of the environmental quality guarantee label in the Catalan Government webpage, available here (in Spanish):

[http://mediambient.gencat.cat/es/05\\_ambits\\_dactuacio/empresa\\_i\\_produccio\\_sostenible/ecoproductes\\_i\\_ecoserveis/etiquetatge\\_ecologic\\_i\\_declaracions\\_ambientals\\_de\\_producte/distintiu\\_de\\_garantia\\_de\\_qualitat\\_ambiental/](http://mediambient.gencat.cat/es/05_ambits_dactuacio/empresa_i_produccio_sostenible/ecoproductes_i_ecoserveis/etiquetatge_ecologic_i_declaracions_ambientals_de_producte/distintiu_de_garantia_de_qualitat_ambiental/)



## 5. Germany

### Overview of measures in place to deal with textiles sustainability

There are no mandatory legal measures that deal specifically with textiles sustainability. In particular, there is no EPR scheme for textiles. However, the German Circular Economy Act (*Kreislaufwirtschaftsgesetz*, "KrWG") provides for "product responsibility". This principle requires economic operators to design products in a way that reduces waste and to ensure that products can be recycled or disposed of in an environmentally sound way after their use. There is also a voluntary EPR scheme called "Grüner Knopf" (*Green Button*).

### The Green Button scheme

#### Overview

The "Grüner Knopf" (Green Button) is a certification mark for sustainable textiles introduced on 9 September 2019 by the German Federal Ministry for Economic Cooperation and Development. It is a voluntary programme under which companies in the textile industry are invited to comply with certain social and environmental requirements and then receive a seal (the "green button") in return. Compliance with these requirements is regularly examined by independent auditors.

#### Recent developments

Even though the Green Button Programme only recently started and is still in an introductory phase until 30 June 2021, it has already attracted a number of participants in the textile industry, including major companies on the German textile market like Aldi Nord, Aldi Süd, Kaufland, Lidl, Rewe Group and Tchibo.

#### Who is the scheme available to?

The Green Button is a global certification mark. Therefore, the programme is available for manufacturers of textiles located inside and outside Germany. The program includes almost all kinds of textiles that are grouped in various classes.<sup>23</sup>

#### Key Green Button Programme obligations for businesses

Participants in the Green Button Programme must meet a total of 46 social and environmental requirements (consisting of 26 product-related criteria and 29 company-related criteria). The programme is mainly concerned with improving working conditions in the countries of production and greater environmental compatibility of the products. But there are also specifications for the use of fibres in production. For example, one of the requirements obliges the manufacturer to use synthetic fibres from recycled fibres or fibres from recycled waste.

There are no penalties since this is a voluntary programme. However, the Green Button must not be used if the requirements of the programme are not fulfilled.

### Key takeaways for textile sustainability

Germany currently intends to introduce a duty of care for products (which would also cover textiles). Such duty will apply, in particular, to customer returns of shipped products, and will mainly affect e-commerce and mail order companies. By introducing this new duty, the government bans the alleged practice of online retailers to destroy returned products for cost reasons. Such practice is presumed to generate a considerable amount of waste and has caused criticism in the German public. A respective bill is currently discussed in the German parliament and may be adopted in the first half of 2020.

In Germany, a so-called "Partnership for Sustainable Textiles" (*Bündnis für nachhaltige Textilien*) was formed in 2014. This is a multi-stakeholder initiative with about 120 members from business, government,

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<sup>23</sup> Further details of the classes can be found here (German language only): [https://www.gruener-knopf.de/includes/data/Gruener\\_Knopf\\_Warenklassen.pdf](https://www.gruener-knopf.de/includes/data/Gruener_Knopf_Warenklassen.pdf)

civil society, unions, and standards organisations. The partnership intends to improve the conditions within global textile supply networks from production of raw materials to re-use and disposal.



## 6. Brazil

### Overview of measures in place to deal with textiles sustainability

In Brazil, the Federal Law No. 12,305/10, which is regulated by the Federal Decree No. 7,404/10, established the National Policy on Solid Waste ("PNRS") that requires the implementation of a reverse logistic (take-back system) for agrochemicals, batteries, tires, lubricant oils, fluorescent lamps, electrical and electronic equipment, medicine as well as general packaging and other products.

Although the textile sector is not expressly mentioned in the PNRS and there is currently no proposal from authorities on that, its products may be understood as "general products" or "products commercialised in general packaging" and, therefore, be subject to take-back requirement systems.

### Take-back system

#### Background to the PNRS take-back system

The major purpose of take-back systems in Brazil is to give a proper final destination to products received by the take-back system and consequently avoid sending those products to landfills or illegal dumps. The targets may vary from item to item, depending on technical and economic feasibility, and are always staggered. For instance, for general packaging (which includes general packaging of clothes, if appropriate) the current target is 22% in terms of collection of all products put on the market.

The referred take-back systems shall be implemented by means of two types of instruments: (i) a National Agreement to be executed with the Ministry of Environment; or (ii) Commitment Agreements to be executed at State level with environmental protection agencies. Authorities can also issue a regulatory decree establishing the rules that will apply to a particular sector.

The PNRS provides a shared liability regime for all product life cycles among all stakeholders in the supply chain (suppliers-producers-consumers). The aforementioned instruments would define the extension of the individual responsibilities of each stakeholder for the implementation of the take-back system. Please note, however, that environmental authorities tend to wrongly apply a joint liability under PNRS, according to which all stakeholders may be held jointly liable, regardless their role in the supply chain.

#### Recent PNRS take-back system developments and trends

At present, we are not aware of any specific enforcement initiatives for the textiles sector in Brazil. There are some companies that already present solutions for recycling textiles, however they are not necessarily well aligned with the logistic reverse rules set forth by PNRS.

#### Who does the PNRS take-back system apply to?

The PNRS foresees that manufacturers, importers, retailers and distributors are obligated to implement a take-back system. From a practical standpoint, importers of products will be the entity responsible for implementing a take-back system on behalf of foreign manufacturers. As such, importers will be subject to the general obligation related to such system.

#### Key take-back system obligations for businesses

Generally, manufacturers, importers, retailers and distributors must implement take-back systems considering their obligation to receive used products by consumers and provide them with the environmentally sound final destination of the wastes, which may include reuse, composting, recycling, recovery or energy recovery of such products. The two types of instruments foreseen by the legislation can provide details, which may vary from case to case, regarding the key obligations for each stakeholder.

For instance, regarding the general packaging take-back system, retailers are obliged to provide an in-store space for collection points to be installed. Manufacturers and importers have the obligation to: (i) disclose (among their National Associations) the volume of packaging distributed in the national market; and (ii) work together with "catadores" (waste collectors) to reach the targets established by the National Agreement on General Packaging.

As mentioned above, this legal requirement considers technical and economic viability, social and environmental impacts as a premise to stakeholders become obligated to implement the take-back system.

## Penalties for non-compliance

Stakeholders that do not comply with the take-back system obligation are subject to administrative penalties – which include fines that may range from BRL 5,000.00 (~ USD 1,000.00) up to BRL 50,000,000.00 (~ USD 10,000,000.00), according to the Federal Law No. 6,514/2008, depending on the gravity of the infraction. Stakeholders may also be subject to civil and criminal liability if any damage arises from the non-compliance.

However, up to the present moment, environmental protection authorities in Brazil are lightly enforcing penalties against companies not complying with the PNRS (most penalties are related to tires and lubricant oil). Despite this, other Authorities, such as the District Attorney's Office, have been adopting other mechanisms to achieve the compliance of the take-back system, such as initiating preliminary investigations to evaluate whether or not a company is complying with the legislation and, depending on the conclusion, proposing an agreement. There are also several Public Civil Actions connected to the take-back systems of fluorescent lamps and general packaging.

## Key takeaways for textile sustainability

Despite not yet being a trend in Brazil, it is probable that a take-back system for textiles will be required by Authorities in a nearby future, in addition to the general packaging is already covered by a take-back system, as highlighted above.

In this sense, it is important to highlight that the Brazilian Association of Footwear Industries, on behalf of several footwear companies, has already committed to implement a take-back system solely for footwear packaging (i.e. the commitment does not cover footwear itself) by means of an agreement executed with the District Attorney of Mato Grosso do Sul State and the Ministry of Environment. This agreement foresees partnerships with recycling cooperatives, a programme to encourage non-generation and waste reduction, a programme to encourage the use of recycled packaging, voluntary collection points of packaging and environmental education activities.

Even though such agreement applies only to the footwear sector, it is a trend that may expand into the textile sector more generally once the relevant Authorities realise that the textiles supply chain also involves multi-type packaging.



## 7. Canada

### Overview of measures in place to deal with textiles sustainability

Canada does not currently have any measures in place to deal with textiles sustainability, such as an EPR scheme for textiles.

### Key takeaways for textile sustainability

Textiles is on the list of products to be subject to Canada's individual producer responsibility model for resource recovery. We would anticipate that regulation is likely coming by 2024 and would obligate individual "producers" to recapture and engage in a permitted recovery activity on a roughly 1-1 basis for every textile it places on the market in any Canadian province or territory.



# Authors



Graham Stuart  
Partner  
+ 442079191977  
graham.stuart@  
bakermckenzie.com



Jessica Mutton  
Senior Associate  
+ 442079191909  
jessica.mutton@  
bakermckenzie.com



Sophie Armstrong  
Associate  
+ 442079191104  
sophie.armstrong@  
bakermckenzie.com



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