

THE EEB'S **ASSESSMENT**

OF THE ENVIRONMENTAL PERFORMANCE OF
THE **FRENCH PRESIDENCY OF THE EU**



JANUARY - JUNE 2022





We are Europe's largest network of environmental citizens' organisations. We bring together 180 civil society organisations from 38 countries. Together, we work for a better future where people and nature thrive together.

The EEB is an International non-profit association / Association internationale sans but lucratif (AISBL).
EC register for interest representatives:
Identification number 06798511314-27
BCE identification number: 0415.814.848
RPM Tribunal de l'entreprise francophone de Bruxelles

Published July 2022
Responsible editor: Patrick ten Brink
European Environmental Bureau (EEB)

Rue des Deux Eglises 14-16
1000 Brussels, Belgium
+32 (0)2 289 1090
eeb@eeb.org

eeb.org
meta.eeb.org

With thanks to marine input from Seas at Risk



With thanks also to the EEB Board for input and endorsement.



With the support of the LIFE Programme of the European Union, the German Federal Ministry of the Environment, Nature Conservation and Nuclear Safety and the German Environment Agency



Federal Ministry
for the Environment, Nature Conservation
and Nuclear Safety



This communication reflects the authors' views and does not commit the donors.

Introduction

This is an assessment of the French Presidency of the Council of the European Union by the European Environmental Bureau (EEB), the largest network of environmental citizens' organisations in Europe, with thanks for inputs from Seas at Risk and signed off by the EEB Board with members from across Europe. The assessment encompasses all environment-related issues, a broad agenda comprising 'traditional' environmental issues as well as sectoral and horizontal policies with a direct or potential environmental impact, sustainable development and participatory democracy.

The French Presidency comes towards the halfway point in the European Green Deal (EGD) and had considerable responsibility for helping to make the EGD the transformative agenda it was promised to be and needs to be. The Presidency had to face the ongoing challenge of dealing with the Russian war in Ukraine that is also an attack on Europe more widely, as well as pressures instrumentalising the war to undermine the EGD.

We view the six-month Council Presidencies as convenient periods over which to measure progress on the EU's environment-related policies and legislation. We appreciate that a Presidency cannot make decisions on its own; it needs the cooperation of the European Commission, European Parliament and other Member States. Nonetheless, the Presidency can still have considerable impact and influence, for example through the priority and profile it gives to specific issues and through the way in which it chairs discussions, prioritises practical work and engages with other Member States to enable progress.

Success depends on the willingness of Member States to commit as well as on political will, ideas, and the use of political capital to achieve results. In addition, policy agendas are often highly affected by external events and new Commission priorities, as has been and still is the case with the Covid-19 crisis, and with the war in

Ukraine that is leading to a turning point in European history. This is a key moment for the EU itself – the European Project is again recognised as an essential project of peace for Europe. Furthermore, the French Presidency has been complicated by the presidential elections in April and parliamentary elections in June that naturally absorbed considerable political capital, time and attention. Our assessment therefore addresses separately both effort and result.

The assessment is not an overall political assessment of the Presidency's performance, nor is it an assessment of the French national political or environmental situation or its domestic policies, except to a limited degree linked to its role in leading or failing to lead by example. We are not assessing its role on foreign affairs issues, internal security matters or migration policies, for example, except insofar as such issues have a direct bearing on the environment.

On the other hand, the assessment is not limited to the activities and outcomes of the Environment Council. It covers all Council configurations to the extent that they deal with topics that affect the environment, as well as the European Council, which is formally not under the French Presidency responsibility, but where the Presidency plays an important role. Our assessment is based on the [Ten Green Tests](#) we presented to the French Government at the start of its Presidency on 23 December 2021.

While we are critical of many of the results achieved, which we assess as inadequate in light of the challenges Europe and the planet faces, and insufficient to give youth confidence that they will inherit a liveable world, we would like to acknowledge and express our deep appreciation for the cooperative approach and openness to civil society adopted by the French Presidency.



Patrick ten Brink
Secretary General

Ten Green Tests for the French Presidency: Assessment

Good effort on cars and chemicals, compromising on climate and energy, and disappointing on sustainable agriculture and taxonomy

Politics is the art of the possible. However, if and where the possible does too little to avoid dramatic climate change, halt catastrophic biodiversity loss, reduce pollution exposure, or improve governance systems in a way that gives confidence in our governments, institutions and future, then we cannot assess the progress to be good, despite efforts. In times of climate, biodiversity and pollution crises, Member States' governments, under the leadership of the Council

Presidency, need to make considerable additional efforts to change what is perceived as possible to align with what is needed. It is in this light of both effort and impact in the context of needs, that we have assessed the performance against the [Ten Green Tests](#).

On the French Presidency's performance against the Ten Green Tests, item-by-item, we reached the following conclusions:

		Effort	Outcome
	1 Address the climate emergency and promote sustainable mobility		
	2 Reverse the dramatic loss of biodiversity and invest in the resilience of our ecosystems		
	3 Promote a transformative zero-pollution ambition agenda		
	4 Initiate a transition towards sustainable food and agriculture		
	5 Drive a circular economy and prevent waste		
	6 Shift towards a zero-pollution industry		
	7 Call for a toxic-free environment and the ambitious implementation of the Chemicals Strategy for Sustainability		
	8 Strengthen accountability and the rule of law and promote environmental justice		
	9 Catalyse the green transition through a new fiscal framework, tax reform and sustainable use of the MFF and Recovery Package		
	10 Drive a just transition to a sustainable and resilient Europe		



1 Address the climate emergency and promote sustainable mobility

The verdict



on effort



on outcome

The [first Green Test](#) called on the French Presidency to: lead the Council negotiations on the Fit for 55 Package; promote sustainable mobility for climate, clean air and citizens; lead the Council discussions on the reform of the Third Energy Package for Gas; and lead by example in the implementation of the Climate Adaptation Strategy.

Key developments

- The Russian war on Ukraine is the major political development affecting the Council work on the Fit for 55 legislative package, reinforcing the clear additional reason of fossil-fuel independence from Russia. It also led to the European Commission's adoption of the March REPowerEU Communication and the May package including the [REPowerEU Plan](#), [EU Solar Energy Strategy](#), and [EU 'Save Energy' Communication](#).
- In May, the Parliament and Presidency reached a [provisional agreement](#) on modifications to the Gas Stockage Regulations, followed by [Council Conclusion](#) at the 27 June Energy Council, which also reached agreement on a general approach on the [Renewable Energy Directive \(RED\)](#) and the [Energy Efficiency Directive \(EED\)](#).
- At the [28 June Environmental Council](#), Member States adopted, *inter alia*, a common position on the [new CO₂ emission performance standards for cars and vans](#), the creation of a [Social Climate Fund \(SCF\)](#), and on the [revision](#) and extension of the EU Emissions Trading System (EU ETS) (see [Test 9 on fiscal and economic instruments](#)).

Good

- The Presidency worked intensely towards reaching general approaches on many **Fit for 55** files before the end of the Presidency in June.
- The Presidency obtained a landmark agreement to stop the sale of **internal combustion engines (ICE)** on the EU Market by 2035.
- The Presidency led a debate on the need to accelerate renewables and mainstream energy efficiency and circular economy, leading to the [Versailles Declaration](#) (10-11 March).
- The Presidency swiftly integrated the **REPowerEU** targets and measures into the Council discussions on the **RED III** and **EED**.

Poor

- The Presidency did not manage to maintain the ambition of the Commission's **RED** proposal, remarkably by giving in on the obligatory sub targets on transports, industry and heating and cooling. Further, nature protection legislation has been weakened and provisions on biomass have been worsened, including by introducing a stricter definition of high biodiversity forests.
- The Presidency moved the **EED** file forward by progressing on the least controversial parts of the dossier. Unfortunately, more flexibility was given to Member States which will likely slow down public buildings renovation rates, exclude social housing and risks weakening the energy savings formula.
- The Council's **Energy Performance of Buildings Directive (EPBD)** position drastically reduces the ambition of the Commission's proposal, particularly concerning the harmonisation of minimum requirements for Zero Emission Buildings and the implementation of Minimum Energy Performance Standards. No minimum requirements for whole life carbon emissions of buildings nor circularity are proposed.
- The Presidency did not kickstart the debate on the **F-gas Regulation**, despite it being a key piece of legislation to deliver both the EGD and the REPowerEU package.
- The [Effort Sharing](#) and [LULUCF](#) Regulations are covered in Test 4 and ETS, SCF, CBAM in Test 9.

Overall, climate was clearly the top priority of the French Presidency. While the Presidency seemingly delayed progress on some climate files due to their elections, they managed to obtain a range of general agreements in the last week of their Presidency, including on the landmark ICE. There were a number of missed opportunities and weakened provisions to enable agreements. Therefore, the overall verdict is mixed on effort and mixed on outcome.



2 Reverse the dramatic loss of biodiversity and invest in the resilience of our ecosystems

The verdict

on effort

on outcome

This [second Test](#) called on the Presidency to lead the Council to: the timely adoption of a strong Nature Restoration Law; a strong Deforestation Law; the adoption of Council Conclusions on the EU Soil Strategy; demonstrate CBD COP15 leadership; and to promote the thriving of marine and coastal ecosystems; while also leading by example.

Key developments

- The EU **Nature Restoration Law** proposal was published on 22 June, three months later than originally planned.
- The French Presidency organised a Ministerial Conference celebrating the EU's Natura 2000 network and led the adoption of the Strasbourg Declaration in which Ministers reaffirmed their commitment to achieving EU biodiversity targets.
- The Presidency organised a meeting of the EU Nature Directors with a focus on nature protection and restoration in June.
- The Presidency organised timely debates on the proposal for the **Deforestation Regulation** and put significant effort in agreeing the Council's negotiating position (general approach) at the Environment Council in June.
- Preparatory meetings to agree on the EU's mandate for the CBD COP15 took place but progress has been slow, and the COP has been delayed once more to end of 2022.
- The Presidency organised the February [One Ocean Summit](#), which drew attention to marine issues but lacked concrete outcomes.

Good

- **The Ministerial Declaration on Natura 2000** reiterated longstanding commitments to protect and restore nature, however those commitments need to be urgently translated into legislation, funding and real action on the ground.
- During the preparatory **CBD COP15** negotiations, the EU took an ambitious leadership role, despite limited EU-level progress to back up this ambition with action.
- The Presidency organised a Nature Directors' meeting with civil society participation and also invited NGOs to a Forest Directors' meeting, although with limited engagement opportunities.
- The Presidency succeeded in agreeing the Council's negotiating position (general approach) on the **Deforestation Regulation** proposal and strengthened its human rights provisions.
- The Council advanced with the trilogue negotiations on the **EU Fisheries Control Regulation**.

Poor

- Besides the discussion during the Nature Directors' meeting in June, the Presidency did not provide meaningful opportunities to prepare the ground for the Nature Restoration Law proposal. The Presidency further failed to counter the false narrative on food availability which contributed to the delay in publishing the Nature Restoration Law proposal.
- Overall, the Council position on the **Deforestation Regulation** is weaker than the Commission's proposal and has introduced additional loopholes. It also failed to extend the scope of the Regulation to other threatened ecosystems.
- No efforts were made to agree on Council Conclusions on the **EU's Soil Strategy**, missing important opportunities for debate on the key commitment for a proposal on a new **EU Soil Health Law**.
- The French government did not lead by example on bird hunting or overfishing and failed to put adequate measures in place to address bycatch of sensitive species.

Overall, the speedy adoption of the negotiating position on the Deforestation Regulation shows good effort by the Presidency but the outcome position is poor. In addition, the Presidency missed the opportunity to adequately prepare the ground for the discussions on the major biodiversity file of the year - the Nature Restoration Law. Therefore, the verdict is mixed on both effort and outcome.

3 Promote a transformative zero-pollution ambition agenda

The verdict

 on effort

 on outcome

The [third Test](#) called on the Presidency to encourage Council support for an ambitious and transformative Zero Pollution Action Plan (ZPAP) and demonstrate Council commitment, support the revision of the Ambient Air Quality Directives in line with the zero-pollution ambition, lead the Council negotiations on the revised Urban Waste Water Treatment Directive, prepare the Council for the negotiations on the proposal to update the list of priority substances under the Environmental Quality Standards and Groundwater Directives and host a Council debate on noise pollution.

Key developments

- The French Presidency organised a high-level ministerial conference ‘Chemical Products: Better protection of health and the environment’ in May which discussed pathways to a toxic-free environment, including via the Zero Pollution Action Plan (*see also Test 7*).
- The European Commission is still expected to adopt its proposals to update the water pollution laws in line with the zero-pollution ambition as well as the Ambient Air Quality Directives revision proposals.
- The process of reviewing the Gothenburg Protocol at UNECE level has continued and offered Parties the opportunity to identify priorities to be considered for the hopefully upcoming revision of the Protocol.
- The French Presidency organised the meeting of EU Water and Marine Directors in June.

Good

- The Ministerial conference ‘Chemical Products: Better protection of health and the environment’ provided an important platform to discuss wider issues of the zero pollution agenda such as the application of the precautionary principle.
- The French Presidency has been active to organise the EU’s input into ongoing international policy processes such as the preparation of the 2023 UN Water Conference.
- During the Water and Marine Directors’ meeting, several strategic discussions around the implementation and enforcement of the Water Framework Directive as well as upcoming updates of water and marine legislation took place.

Poor

- The French Presidency failed to organise the Council’s support for the proper implementation of the Zero Pollution Action Plan and left the debates on the upcoming revisions on water and air legislation at the technical level, without bringing the necessary political attention to these important legislative updates that can enable the EU’s zero pollution transition.
- The French Presidency did not take any steps or lead any discussions on noise pollution, the second biggest environmental health risk in Europe. Noise pollution is an issue which deserves space in the political debate and action by decision-makers is necessary.
- Air quality, together with health and environmental protection, is to be considered a perennial priority – despite the Council not being specifically involved in any decision-making process specifically related to air quality, visibility to this issue should have been given, also to positively support the European Commission in its preparation of its proposal for revised Ambient Air Quality Directives.
- France failed to lead by example and our analysis of the draft river basin management plan for the Loire-Bretagne basin highlighted an insufficient programme of measures, a low level of secured funding as well as overreliance on exemptions from the WFD objectives to justify lack of action and the fact that the water bodies will not be brought back to health by 2027.

Overall, the French Presidency has demonstrated some commitment to the zero-pollution ambition by organising a conference dedicated to chemical pollution. Yet, other key aspects and issues which deserve attention and require swift action have not been considered (e.g., air quality and noise pollution). Therefore, the verdict is mixed on effort and poor on outcome.



4 Initiate a transition towards sustainable food and agriculture

The verdict

 on effort

 on outcome

This Test called on the French Presidency: to ensure that legislative initiatives on climate and pesticides drive forward the transition of the agriculture sector to climate- and nature-friendly farming; to push for a new Common Agricultural Policy (CAP) and national Strategic Plans that are in line with the Green Deal; and to engage constructively with the Commission and civil society in the development of initiatives under the Farm to Fork Strategy aimed at achieving sustainable food systems.

Key developments

- The Russian attack on Ukraine has caused havoc in the agri-food sector. Extraordinary increases in fertilisers, fuel, and feed prices hit farmers hard, and disruption to cereals markets threaten the ability of vulnerable populations to access food. This crisis called for urgent but also systemic solutions. However, the policy response has so far focused on short-term fixes and many political and private actors have seized the crisis to undermine the Farm to Fork and Biodiversity Strategies. The proposals for the revised Sustainable Use of Pesticides Directive (SUD) and the new Nature Restoration Law were finally published in June 2022.
- All 28 draft CAP Strategic Plans were submitted to the Commission in early 2022 and the Commission sent Observation Letters to Member States which were published after some delay.
- The Council adopted its general approach on the Fit for 55 files, supported by one exchange of views on the Land Use, Land Use Change and Forestry (LULUCF) Regulation in the Agriculture Council. In response to the Commission Communication on Sustainable Carbon Cycles, the Agriculture Council also adopted conclusions on Carbon Farming.

Good

- The French Presidency invited the EEB to the Informal Meeting of Agriculture Ministers, which focused on carbon farming. It was only the second time ever that environmental stakeholders were invited to this six-monthly meeting, so the invitation was warmly welcomed.
- The EEB was also invited to the meeting of Forest Directors General for the first time, a welcome move; however, the closed-door format of the meeting was a step back compared to previous meetings.
- The conclusions on Carbon Farming included some welcome messages but fell short of the needed holistic approach to climate and biodiversity and did not highlight the need for the CAP to increase its contribution to climate action.

Poor

- In the wake of the Ukraine war, the French Presidency argued strongly for increasing agricultural production in the EU, at the cost of the environment and without a clear rationale as to how this would help those in need. This was framed as contributing to our 'food sovereignty', with the French Presidency co-opting the term to mean food security and self-sufficiency. The French Presidency contributed to attacks on the Farm to Fork Strategy, with President Macron stating the Strategy need to be revised.
- The French CAP Strategic Plan was strongly criticised by French civil society and environmental authorities and received criticism from the Commission in its Observation Letter.
- The French Presidency did not stand by its commitment to tackle the problem of chemical pesticides. Little was done to prevent the delay in the publication of the legislation on the sustainable use of pesticides.
- The general approach on agriculture-related Fit for 55 files show a strong lack of ambition, which could allow agricultural GHG emissions to continue unabated for another decade. The Council significantly weakened the Commission proposals for the ESR and LULUCF Regulation.

Overall, green rhetoric is not followed up with real ambition in agriculture-related legislative and policy files. While the Presidency slightly improved dialogue with environmental NGOs, it also actively pushed false solutions to the shocks caused by the Ukraine war. Therefore, the verdict is poor on effort and poor on outcome.



5 Drive a circular economy and prevent waste

The verdict



on effort



on outcome

[This Test](#) called upon the Presidency to progress with ambition on legislative files released before the start of the French Presidency, namely on the Batteries, Waste Shipment and Energy Performance of Buildings Directive policies, while kick-starting discussions in the Council on proposals released during the first semester of 2022, notably the first Circular Economy package including the revision of the Ecodesign framework, the revision of the Construction Product Regulation, the Strategy for circular and sustainable textiles and the initiative to empower consumers.

Key developments

- The French Presidency progressed the discussions on **Batteries** but will not be able to finalise the negotiations with the EU Parliament.
- On the **Energy Performance of Buildings Directive (EPBD)**, the Council perpetuated a narrow focus on the energy-in-use stage, still missing the opportunity to unleash further decarbonisation potentials through the promotion and recognition of circular economy practices and the adoption of a whole life cycle perspective on carbon.
- On the **Waste Shipment Regulation**, only a progress report was issued. For the initiatives included in the **Circular Economy Package 1** that was issued on 30 March 2022, no initial steps were attempted to discuss the package.

Good

- The French Presidency made good efforts on the **Batteries** file, notably preserving innovative policy proposals related to carbon footprinting, durability performance, due diligence, digital product passports, recycled contents, as well as making efforts to anticipate the discussion with the EU Parliament.
- On the Batteries file, the increased clarity on **Extended Producer Responsibility** schemes and the provisions to reinforce the responsibility of online sales platform are welcomed.
- The Presidency endeavoured to enable a sound Council discussion on the **Waste Shipment Regulation**.

Poor

- The Council Position on **Batteries** is not at the right level of ambition as it delays most of the preserved innovative policy routes over time, reduces the scope of application of these innovative provisions, notably by still referring to an unjustified 2kWh capacity threshold, and undermines waste stage provisions, notably collection targets.
- The Council Position on the **EPBD** neglects the embodied emissions in construction materials and misses the opportunity to create real market drivers for recycled materials and low-carbon materials by not immediately taking on board the Whole Life Carbon approach and by staying blind to circularity potentials. Furthermore, the Council Position does not go as far as needed on phasing out heating solutions based on fossil fuel in the building sector, despite the pressure to decrease our dependency on fossil fuel, notably on gas imported from Russia.
- There are no clear outcomes on the **Waste Shipment Regulation**, except a first list of open issues.
- On **Ecodesign for sustainable products**, we regret that the Competitiveness Council obtained the lead on the file, rather than the Environmental Council and that no attempt has been made to kick-start a discussion within the Council.

Overall, while we understand that some of the files, such as the Circular Economy package 1, could not be properly progressed given the heavy agenda of the Presidency, the outcomes on Circular Economy are rather disappointing, even if we recognise some efforts made on Batteries. Therefore, the verdict is mixed on effort and poor on outcome.



6 Shift towards a zero-pollution industry

The verdict



on effort



on outcome

[The sixth Test](#) called on the Presidency to lead discussions in the Council towards an ambitious reform of the Industrial Emissions Directive (IED); to improve access to and useability of environmental information for the purpose of compliance promotion, benchmarking and public accountability in decision-making; to lead by example and implement recommendations by the UNECE Pollutant Release and Transfer Registers (PRTR) Protocol Bureau by upgrading the French reporting systems; to ensure that the Council Working Parties systematically allow for early and effective pre-consultation with civil society interest groups; and to promote an ambitious implementation of the new Industrial Strategy.

Key developments

- The Commission published their proposals for a revised **IED and E-PRTR** (IED Emissions Portal) on 5 April 2022.
- Discussions on the **IED proposal** started in the Council Working Group and four meetings have been held.

Good

- The revised **IED** proposal contains some positive elements, such as a new approach to align to the strictest possible emission limit values (ELVs). Currently the French permitting authorities do not set ELVs in an ambitious way, however, France has on several occasions in the EU BREF review context asked for tighter requirements for indirect wastewater releases. It therefore appears likely that the French delegates played an instrumental role in the early Council Working Party meetings.
- We recognise the progress made on [improving reporting](#) on industrial activities in France. The French **IREP (French PRTR)** already provides site-specific water consumption data and the national database further contextual information. Whether this national practice led the European Commission to require improved reporting on consumption and other inputs under the revised E-PRTR is unclear.

Poor

- The French government did not lead discussions in the Council, nor actively pushed for a future-fit **IED**. It missed the opportunity to prepare the Council for the assessment of the Commission proposal.
- The French position on the **IED and E-PRTR** proposals has not been communicated actively. The French Presidency did not organise any events to exchange on developments, nor did it proactively reach out to NGOs. In the preparatory consultations for the IED review (Targeted Stakeholder Consultation), France opposed including smaller energy production facilities into the stricter IED permitting regime and opposed command-and-control approaches on greenhouse gas emissions under the IED. Furthermore, the French Agriculture Minister objected strongly to the lowering of thresholds regarding intensive livestock rearing activities.
- The decision-making within the Council Working Group remains opaque and lacks transparency, and civil society groups were not proactively engaged in the preparatory discussions.
- The French ministry did not lead by example in consulting with NGOs as it did not systematically invite NGOs in the national BREF mirror groups.
- The French Presidency missed the opportunity to lead by example: the national database on the IED is of rather poor quality compared to other EU Member States.

Overall, the engagement of the French Presidency on the files included in this test has been low, they have not led by example nationally and engagement in EU processes was mainly reactive. Therefore, the verdict is mixed on effort and poor on outcome.



7 Call for a toxic-free environment and the ambitious implementation of the Chemicals Strategy for Sustainability

The verdict



on effort



on outcome

[The seventh Test](#) called upon the Presidency to: support the delivery of the Chemicals Strategy for Sustainability (CSS); support ambitious revisions of the REACH and CLP Regulations; organise an event on key chemicals policy topics; promote the implementation of a horizontal Zero Pollution Action Plan that tackles pollution at source; and to promote protective restrictions under REACH. On mercury it called on the Presidency to promote EU leadership in strengthening the Minamata Convention on Mercury, the EU Mercury Regulation and relevant legislation, and to promote a strong Digital Services Act (DSA).

Key developments

- **Chemicals policy** was one of the key issues of the Presidency under the 'Healthier environment' priority of the Presidency and contributed to the high-level roundtable on the implementation of the Chemicals Strategy.
- The Presidency initiated [discussions](#) for the **revision of chemicals legislation** to better address endocrine disruptors, pesticides, emissions of pollutants and waste management and organised a high level ministerial [conference](#) 'Chemical Products: Better protection of health and the environment' that addressed most of these issues.
- The Restriction on Hazardous Substances Directive (**RoHS**) delegated acts phasing out mercury fluorescent lamps for general purpose were [adopted on 24 February](#).
- The second segment of the 4th Conference of the Parties (COP4.2) to the **Minamata Convention** in March 2022 took important decisions towards strengthening the Treaty.
- The **Digital Services Act (DSA)** has reached a preliminary agreement between Council and Parliament though discussions are still ongoing on some important areas.

Good

- The French Presidency organised the [conference](#) 'Chemical Products: Better protection of health and the environment' in May 2022 to support an ambitious and timely delivery of the central elements of the **CSS**. Many important aspects were discussed in the conference such as the impact of pollution on biodiversity, endocrine disrupting chemicals and the need to properly apply the precautionary principle.
- The Informal meeting of the Environment Council in January included a thematic session on implementing the **European Chemicals Strategy for Sustainability**. The EEB's Secretary General was invited to contribute to the discussions with an NGOs perspective.
- The Presidency contributed to the dedicated high-level roundtable on research and innovation and safe and sustainable by design chemicals.
- The Council did not object to the **RoHS** delegated acts phasing out mercury fluorescent lamps for general purpose and they were adopted on 24 February.
- The EU had a strong presence and led forward-looking discussions at the **Minamata COP4.2**.

Poor

- The French Presidency did not pay particular attention to **economic instruments** to ensure financially sustainable system-change and the application of the polluter-pays principle.
- The French Presidency did not take action to reduce the Commission's **delays on restrictions proposals**.
- On the **DSA**, the French Presidency appears to have [watered down](#) important consumer relevant provisions, notably in relation to the obligations of online marketplaces, online advertising, and dark patterns.

Overall, the French Presidency's engagement on chemicals is laudable and should positively influence the upcoming negotiations of the chemicals legislation revisions, although concrete impacts of these actions remain to be seen. Therefore, the verdict is overall good on effort and mixed on outcome.



8 Strengthen accountability and the rule of law and promote environmental justice

The verdict



on effort



on outcome

In [this Test](#) we called upon the Presidency: to empower civil society in their engagement in environmental issues; to promote access to justice in all sectoral environmental and climate legislation; to be ambitious on the revision of the Environmental Crime Directive; to lead the Council position on the new anti-SLAPP (Strategic Litigation Against Public Participation) Directive proposal to protect activists, NGOs and journalists from vexatious lawsuits; to take action to ensure that the EU complies with the Aarhus Convention Compliance Committee findings on the C128 case on state aid; to lead the Council for a strong position in the proposal on horizontal and mandatory due diligence rules on companies; to curb the misuse of 'Better Regulation' that weakens protections; and to promote civil society space and meaningful participation in decision-making for democratic legitimacy.

Key developments

- In February 2022, the Commission published its proposal for a **Directive on Corporate Sustainable Due Diligence**, setting mandatory and horizontal environmental and human rights due diligence obligations on EU companies above a certain size.
- The nomination phase of the Special Rapporteur for the Rapid Response Mechanism under the **Aarhus Convention** took place in spring and at the 24 June Extraordinary Meeting of the Parties to the Aarhus Convention, Michel Forst was elected as the first Special Rapporteur for Environmental Defenders under the Rapid Response Mechanism.
- The **Environmental Crime Directive** discussions in the Council began during this Presidency.

Good

- The Presidency took an active interest and a highly collaborative approach with the Member States and civil society in the nomination and election process of Special Rapporteur for the Rapid Response mechanism under the **Aarhus Convention** and ensured that all nominated candidates were properly and fairly assessed and screened by the EU and the Member States ahead of the elections in June.
- The Aarhus Convention processes, including for the preparations of the Working Group of the Parties, the extraordinary Meeting of the Parties and the election of Special Rapporteur. The Presidency invited a delegation of NGOs for an informal and open discussion with Member States and the Commission on the side of the Working Party on International Environmental Issues.
- The Presidency encouraged and took a proactive approach in consulting with NGOs regarding the

Poor

- One of the priorities of the French Presidency was the revision of the **Environmental Crime Directive**. The Commission proposal presented mostly satisfactory amendments, some of which some Member States have been reluctant to accept. While compromising with some Member States resisting the needed changes to make the legislation more ambitious, the Presidency's position was not as ambitious as was originally hoped and the partial general approach reached in the Justice and Home Affairs committee was disappointing.
- There has been no official progress on securing a negotiating mandate for the EU in the **UN open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights**. In the context of an increasingly polarised set of options in the text for the new instrument, it is essential that the EU and the Member States proactively engage in these negotiations, in line with their obligations under Article 3(7) of the UNECE Aarhus Convention.

Overall, the Presidency cooperated well with civil society and had a number of laudable goals and plans for its term, but which it did not push hard enough to be able to meet. Therefore, the verdict on balance is mixed on effort and mixed on outcome.



9 Catalyse the green transition through a new fiscal framework, tax reform and sustainable use of the MFF and Recovery Package

The verdict



on effort



on outcome

In [this Test](#) we called upon the French Presidency to: lead the Council in negotiations on the fiscal reform initiatives (Energy Taxation Directive (ETD), Emissions Trading Scheme (ETS), CBAM); promote compliance with the 'do no significant harm' (DNSH) principle in EU Funds and secure ambition in the Sustainable Finance Taxonomy criteria; as well as to promote increased and early use of the social fund and complementary funding to promote energy efficiency and renewable energy in buildings.

Key developments

- A [General Approach](#) on the **Carbon Border Adjustment Mechanism (CBAM)** was agreed in March.
- **ETS** was discussed at the March and June environmental council meetings and at the Energy Council meetings with a general approach agreed on the [ETS revision](#), on [aviation](#), on the ETS extension, as well as on [Market Stability Reserve](#).
- The Presidency shared a [progress report](#) on the **Energy Tax Directive (ETD)** at the June Ecofin Council but with no debate.

Good

- Despite risks of the **Social Climate Fund (SCF)** failing, a general agreement was reached.
- A general agreement was achieved on the creation of the controversial **EU-ETS II for building and road transport** with auctioning in 2027, and allowance surrender in 2028, one year later than the Commission proposal.
- The Council also agreed to include **maritime shipping emissions** within the scope of the EU ETS, broadening the instrument's coverage.
- The Council improved the **governance and transparency of both the Modernisation and Innovation Funds**.

Poor

- The general approach of the Council waters down the **SCF proposal**, reducing the commitment of 72bn EUR of ETS allowances in the buildings and road transport to support poorer household on the energy transition to 59bn EUR.
- The Council did not oppose the Commission's proposal to include gas and nuclear power as sustainable investments under the **EU Taxonomy**. France has been one of the loudest proponents of this complementary delegated act (CDA), leading the Commission to ignore expert advice from the Platform on Sustainable Finance, seriously damaging the credibility of the EGD, undermining the transparency of the process, raising serious questions about the governance of the EU Taxonomy development, and undermining the neutral role of Presidencies.
- For the **EU-ETS** the Council maintained the insufficient ambition of 61% emissions reductions by 2030, with weak free allowances and missed opportunities on revenue use.
- The Presidency downsized the potential of the [CBAM](#) to a trade/competitiveness instrument without enhancing and further shaping its role as an enabler of more climate ambition in the EU and outside, to promote a global environmental level playing field and global justice and to meet the EU's historical and ongoing responsibility.
- The Presidency has left room for major exceptions in the **ETD** that would water down the original text from the Commission.

Overall, France's Council agreements were achieved at the cost of weakening the instruments, making them inadequate to address the climate crisis and the need to incentivise a move away from fossil-fuel dependence. Worse, the French put national nuclear interests above those of good process, of the energy transition away from gas, of addressing climate crisis and weakened EU's position vis a vis Russia. Therefore, the verdict is poor on effort and poor on outcome.



10 Drive a just transition to a sustainable and resilient Europe

The verdict



on effort



on outcome

Our [final Test](#) called upon the Presidency to: lead and engage in the debate for an ambitious reform proposal as part of the EU Economic Governance Review; make a case for a long overdue update of the Stability and Growth Pact; promote a total overhaul of the European Semester; push forward the reform of the EU's trade and investment policy; promote debate and explore policy options on digitalisation for a green transition; engage in the Conference on the Future of Europe (CoFoE) to promote a vision on the future of Europe; initiate and advance discussions on interlinkages between environmental policies, gender and social justice; and to ensure that the EGD remains at the core of EU policy as Europe recovers from the Covid-19 crisis.

Key developments

- In [March](#), the Council adopted the **8th Environment Action Programme** which includes the wellbeing economy as a priority.
- On Europe Day, 9 May, French President Macron for the Council Presidency, together with the Commission President and the President of the Parliament, received the recommendations developed by citizens assembled in the **Conference on the Future of Europe (CoFoE)**.
- The Commission decided to keep the General Escape Clause activated throughout 2023 as part of the EU Economic Governance Framework to avoid austerity in 2023.

Good

- The Presidency hosted the event concluding the **Conference on the Future of Europe** and promoted and endorsed the idea of treaty changes which would be necessary to transform the **Stability and Growth Pact to a Sustainability and Wellbeing Pact**.
- The French initiative for the **CoFoE** triggered a Pan-European experiment in deliberative democracy from which the European institutions must learn in the future. The recommendations show clear support for the European Green Deal and for higher ambition for climate and environmental action. President Macron has made it clear the EU needs to develop and adjust to new challenges, including through reforms and changes to the **Treaties**.

Poor

- There has been little progress on advancing the **EU Economic Governance Review**. However, this was partly caused by the Russian invasion of Ukraine which redirected the attention towards sanctions and energy independence.
- There was little progress on pushing forward the reform of the **EU's trade and investment policy** for it to be fully aligned with the EGD. France was one of the Member States asking the Commission to develop legal analysis on potential EU Energy Charter Treaty withdrawal but failed to persuade the Commission for a collective Treaty withdrawal.
- The Presidency failed to engage in discussions to reform the EU **Semester** by, for example, creating an annual sustainability cycle that fully integrates the EGD, SDGs and fiscal reform to strengthen resilience.
- The Presidency missed the opportunity to advance discussions on the interlinkages of environmental policies, gender and social justice.
- The Presidency used the **Russian war in Ukraine** as an excuse to push the position of **intensive agriculture** and sought to weaken the **Farm to Fork Strategy**, arguing that more EU agricultural production was essential, promoting intensive farming practice. Similarly, the French support for gas and nuclear in the Taxonomy delegated act weakened the credibility of the EGD.

Overall, the French Presidency made efforts in facilitating and closing the CoFoE process, leading to positive recommendations for a green future. However, they failed to progress on pushing ambitious reform discussions of EU trade and investment policies, the EU Semester and Stability and Growth pact, let alone on advancing discussions on intersectional perspectives of environmental policies. Therefore, the overall verdict is mixed on effort and poor on outcome.

Abbreviations

8EAP	8 th Environment Action Programme
AAQD	Ambient Air Quality Directives
ACCC	Aarhus Convention Compliance Committee
BAT	Best Available Techniques
BREFs	Best Available Techniques Reference Documents
CAP	Common Agricultural Policy
CBAM	Carbon Border Adjustment Mechanism
CBD	Convention on Biological Diversity
CCFLs	Cold-Cathode Fluorescent Lamps
CLFs	Compact Fluorescent Lamps
CoFoE	Conference on the Future of Europe
COP	Conference Of Parties
CRC	Carbon Removals Certification
CSS	Chemicals Strategy for Sustainability
DNSH	Do No Significant Harm Principle
DSA	Digital Services Act
ECT	Energy Charter Treaty
EED	Energy Efficiency Directive
EGD	European Green Deal
EPBD	Energy Performance of Buildings Directive
E-PRTR	European Pollutant Release and Transfer Register
EQSD	Environmental Quality Standards Directive
ESR	Effort Sharing Regulation
ETD	Energy Taxation Directive
ETS	Emissions Trading Scheme
GBF	Global Biodiversity Framework
GD	Groundwater Directive
ICE	Internal Combustion Engine
IED	Industrial Emissions Directive
LULUCF	Land Use, Land-Use Change and Forestry
MFF	Multi-Annual Financial Framework
NRL	Nature Restoration Law
NRRPs	National Recovery and Resilience Plans
PAs	Partnership Agreements
PPP	Polluter Pays Principle
PRTRs	Pollutant Release and Transfer Registers
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals
RED II	Renewable Energy Directive II
RoHS	Restriction on Hazardous Substances Directive
SDGs	Sustainable Development Goals
SLAPP	Strategic Lawsuit Against Public Participation)
SUD	Sustainable Use of Pesticides Directive (SUD)
SUR	Sustainable Use of Pesticides Regulation (SUR)
UWWTD	EU Wastewater Treatment Directive
WHO	World Health Organisation
ZPAP	Zero Pollution Action Plan



EEB

European
Environmental
Bureau

European Environmental Bureau

Rue des deux Eglises 14-16
1000 Brussels, Belgium

Tel +32 2 289 1090

eeb@eeb.org

eeb.org

META

Keep up to date with the
latest environmental news
at the EEB's news channel
meta.eeb.org

The EEB and its members welcome continued engagement and cooperation with the Presidencies of the Council of the European Union.

We also develop a paper before each Presidency Trio. The 2022-2023 paper, addressed to the French, Czech and Swedish Presidencies, can be read [here](#).

For more information, please contact:

Patrick ten Brink
Secretary General
Patrick.tenBrink@eeb.org