



## EU Environment Report

October 2011

### CHEMICALS

**French proposal to ban Bisphenol A in food containers approved by Assemblée Nationale**

France proposes to extend a ban on the chemical bisphenol A (BPA) from baby bottles to all food containers. Under the plan, BPA would be banned from food containers aimed at children under the age of three from 2013. The manufacture and sale of all food containers with BPA would be banned a year later. The French Assemblée Nationale voted in favour of the ban on 12 October. The Senate is expected to vote on this before the end of 2012.

To read the text (in French), click [here](#).

**Commission adopts first-ever international definition of nanomaterials**

On 18 October 2011, the European Commission adopted an EU definition of nanomaterials. This is the first ever international definition of nanomaterials for regulatory purposes. The definition is in the form of a recommendation that is not legally binding. The intention is that it will be incorporated into sector- or product-specific legislation and that that legislation will then be legally enforceable.

[Recommendation 2011/696/EU](#)

To read the White & Case Client Alert on this topic, click [here](#).

**ECHA publishes list of 91 substances to be evaluated under REACH**

On 21 October, the European Chemicals Agency (ECHA) published the draft version of the first Community Rolling Action Plan ("CoRAP") for the REACH regime. The CoRAP lists 91 substances suspected of causing risks to health and to the environment. The substances are to be evaluated under the REACH regime over a period of three years (2012, 2013 and 2014). The Member States will be responsible for conducting the assessments. The Draft CoRAP has been submitted to the Member States and to the ECHA Member State Committee. The Committee will prepare an opinion on the draft plan. ECHA then plans to adopt the final CoRAP on the basis of the Committee's opinion by the end of February 2012.

The Public Version of the draft CoRAP is available [here](#).

### CLIMATE CHANGE

**EU agrees on its negotiating position for UN Climate Change Conference in Durban**

Ahead of the UN annual climate conference, which will take place from 28 November to 9 December, in Durban, South Africa, the Council has

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*This newsletter briefly describes EU environment developments.*

*Due to the general nature of its content, this newsletter is not and should not be regarded as legal advice.*

adopted conclusions setting out the main elements of the EU's negotiating position. The aims of the Durban conference are to make operational the agreements reached at last year's Cancún conference, address the key issues which were not covered at Cancún, and decide on the legal form of the future global framework. The Council, which is composed of the environment ministers of the EU Member States, has stated that it would commit to a new phase of the Kyoto climate change pact, on the condition that other nations responsible for carbon emissions – such as the US, China and India -- also sign up.

The Council Conclusions are available [here](#).

## ENERGY

### Advocate General Kokott of ECJ believes inclusion of international aviation in EU ETS is compatible with international law

On 6 October 2011, Advocate General Juliane Kokott of the Court of Justice of the EU (ECJ) delivered her Opinion in the Air Transport Association of America case. According to the Advocate General, the inclusion of international aviation in the EU emissions trading scheme is compatible with international law (including the Chicago Convention, the Kyoto Protocol and the Open Skies Convention). The case was brought by several airlines and airline associations whose headquarters are in the USA or Canada, challenging the implementation of the EU Directive which includes aviation activities in the EU emissions trading scheme. The AG Opinion is influential, but is not ultimately binding on the ECJ. The date for the ECJ's judgment has not yet been released.

To read the full text of AG Kokott's opinion in Case C-366/10, click [here](#).

### Commission presents Connecting Europe package of proposals to boost energy, infrastructure and digital networks in the EU

On 19 October, the European Commission presented a package of proposals which seek to establish a single €50bn funding facility for transport, energy and digital networks in the EU. The "connecting Europe" facility will apply for the period between 2012 – 2020. It is combined with a project bond initiative intended to lower the risks for private sector investors. The biggest chunk of the investment – €31.7bn – will be spent on Europe's transport network. Of this, €10bn is ring-fenced in cohesion funds for transport projects in new member states; the rest can be spent across the EU. Just over €9bn will be available for energy projects. The Connecting Europe package consists of three communications, a legislative proposal for a regulation establishing the Connecting Europe Facility, and legislative proposals for a regulation on guidelines for the trans-European transport network, for trans-European energy infrastructure and for trans-European telecommunications networks.

The full texts of the proposals can be found [here](#).

## ELECTRONICS

### MEPs adopt second-reading position on Electronic Waste Directive

On 4 October the European Parliament's environment committee adopted its second-reading position on the draft recast Directive on Waste Electrical and Electronic Equipment ("WEEE"). The MEPs have made little compromise to take account of the position of the Council, largely staying faithful to their first-reading position, which was agreed earlier this year. This could make negotiations with the Council potentially difficult. In particular, the environment committee rejected derogations for certain countries and insisted that all electronic products should be covered by the WEEE Directive straight away. The Council's position is that the WEEE Directive should apply

to a list of specific products until 2018.

To view the procedural file containing all the relevant documentation, click [here](#).

## OTHER

### Parliament supports greener Public Procurement Rules

On 25 October, the European Parliament adopted its final Resolution on the modernisation of public procurement in its plenary session. Amongst other things, the Report suggests that the criterion of "lowest price" should be removed and all contracts should be awarded to the "most economically advantageous tender". This should include entire life-cycle costs and environmental considerations of the relevant goods, services or works, taking sustainable production into account. The Report is a non-legislative resolution which calls on the Commission to take account of key concerns when it issues its proposal on the modernisation of the public procurement rules, expected in December 2011.

To read the report, click [here](#).

### Basel delegates agree on entry into force of toxic waste export ban

The tenth meeting of parties to the Basel convention, which closed on 21 October, has been deemed a major breakthrough. Delegates, including the EU, reached a solution as to when to enforce a toxic waste export ban. The ban prohibits toxic waste exports from OECD to non-OECD countries. It was first agreed upon in 1995 and has been ratified by 71 nations, but it was unclear when it should enter force. Delegates agreed that it should enter into force once three-quarters of the parties who were delegates at the time of the convention's adoption have ratified it. This means that the ban will enter into force when it is ratified by another 17 of the initial group of Basel delegates.

The Basel Convention website can be accessed [here](#).

## The Month Ahead

### NOVEMBER

#### 10 – 11 November

5th St. Gallen International Energy Forum (IEF), St. Gallen, Switzerland  
[www.sg-ief.com/](http://www.sg-ief.com/)

#### 14 – 15 November

EIPA Seminar: European Emission Trading Scheme, Maastricht, The Netherlands  
[www.eipa.eu/files/repository/product/20110908090159\\_info\\_1131905.pdf](http://www.eipa.eu/files/repository/product/20110908090159_info_1131905.pdf)

#### 15 – 18 November

6th World Recycling Forum: International Conference & Exhibition on Electronics, Battery & Car Recycling, Hong Kong  
[www.icm.ch/6th-world-recycling-forum-wrf-2011](http://www.icm.ch/6th-world-recycling-forum-wrf-2011)

#### 23 November

Friends of Europe Energy Summit: "Europe's Uncertain Energy Future", Brussels  
[www.friendsofeurope.org](http://www.friendsofeurope.org)

**28 November**

British Chamber 1st Annual Green Design and Innovation Forum: "Creating a Green Future", Brussels

[www.britcham.be/LinkClick.aspx?fileticket=D1XBGkrX7pU%3d&tabid=316](http://www.britcham.be/LinkClick.aspx?fileticket=D1XBGkrX7pU%3d&tabid=316)

**29 November**

IBC 6th Annual Competition Law in the Energy Sector Conference, Brussels

[www.informaglobalevents.com/event/competition-law-energy-sector-conference-2011](http://www.informaglobalevents.com/event/competition-law-energy-sector-conference-2011)

**DECEMBER**

**5 December**

Energy Law Research Forum Conference, Leuven, Belgium

[www.intersentia.com/docs/e-Flyers%20UK/1104186\\_Folder\\_ELRF.PDF](http://www.intersentia.com/docs/e-Flyers%20UK/1104186_Folder_ELRF.PDF)

**5 – 6 December**

EIPA Seminar: Making Europe More Energy Efficient, Maastricht, The Netherlands

[www.eipa.nl](http://www.eipa.nl)

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White & Case LLP  
Avocats-Advocaten  
62 rue de la Loi – Wetstraat 62  
B-1040 Brussels  
Belgium

[www.whitecase.com](http://www.whitecase.com)

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