



L'Empreinte© decodes **THE AGECE LAW**

(ANTI-WASTE LAW FOR A CIRCULAR ECONOMY)

FOR THE APPAREL & FOOTWEAR SECTOR

CONTEXT

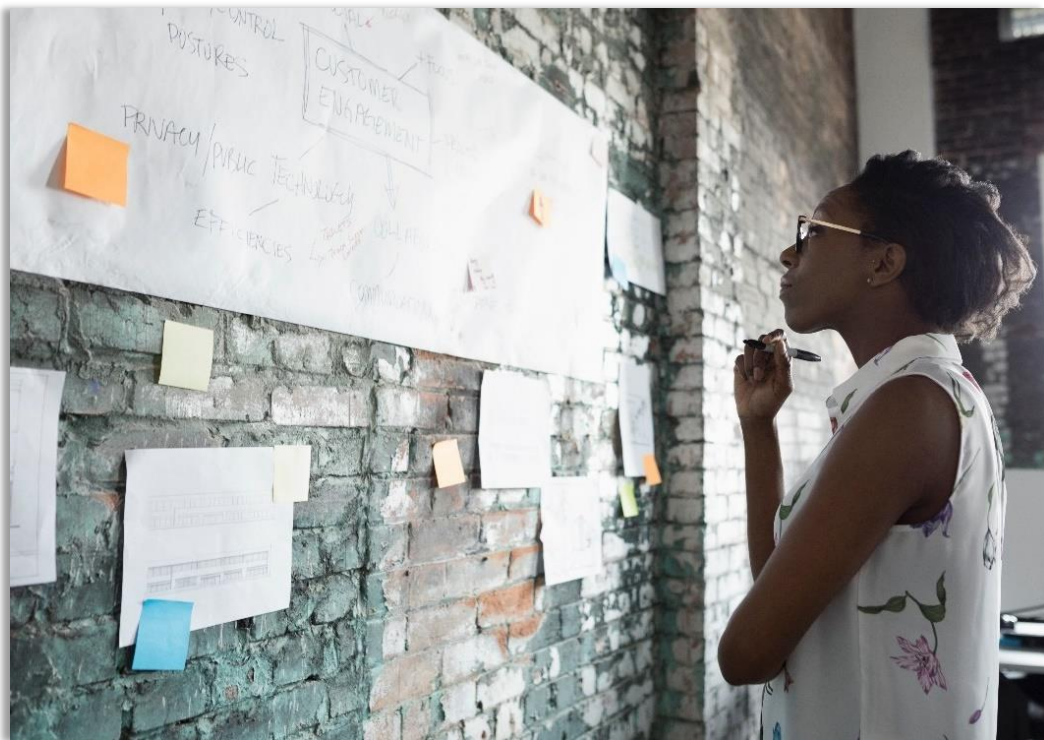
- Through its 130 articles, the AGECL law for Anti-Waste Law for a circular economy, of 10/02/2020, is part of the French environmental code
- This law aims to deeply transform our consumption system: it is about changing the habits "produce, buy, consume and then throw away" and to limit waste by promoting the circular economy in its entirety.
- The Agecl law has consequences on each sector, which it is preferable to anticipate. It introduces a number of obligations towards producers, importers and marketers, including the implementation of an environmental labeling system. Its application decree dates from April 29, 2022, for implementation on January 1, 2023.



THE MAIN ARTICLES IMPACTING THE APPAREL AND FOOTWEAR SECTOR

5 articles of the AGEC Law directly concern Apparel and Footwear sector:

Article	Topic
Article 13	Materials information
Article 15	Environmental Labeling
Article 17	Waste sorting
Article 35	Deadstock
Article 62	Extended producer responsibility and eco-organizations



ARTICLE 13

IN A NUTSHELL

WHO IS CONCERNED?

Effective date	Turnover threshold for all products concerned (last accounting year)	Number Units of all products concerned placed on the French market annually
1/1/2023	50 Million EUR	> 25 000 units
1/1/2024	20 Million EUR	> 10 000 units
1/1/2025	10 Million EUR	> 10 000 units

HOT SPOTS

Article 13 completes Article L. 541-9-1 of the Environmental Code and is defined by the implementing decree published in the Official Journal on April 30, 2022.

“It requires to communicate to consumers, by any appropriate process, information on the environmental characteristics of products consistent with EU law, with emphasis on life cycle analysis and in particular:

1 - Product traceability

2 - Materials information

- 2.1 The risks of rejecting plastic microfibers linked to the use of synthetic materials
- 2.2 The presence of hazardous substances,
- 2.3 The presence of recycled materials

3 - Recyclability of the product



1 | TRACEABILITY

PRODUCT TRACEABILITY

Definition:

The traceability implies to know the country of origin of a component of the product and the country where a stage of its manufacture was carried out.

AGEC evolves disclosure and transparency rules:

The FAQ¹ specifies that **when a step is carried out in several countries, it is the one in which the step is carried out in majority or in greater number that must be indicated.**



FOR CLOTHING

It is necessary to indicate the country in which they were made:

- 1- Weaving/Knitting
- 2- Finishing: dyeing, printing...
- 3- Confection



FOR SHOES

It will be necessary to indicate the country where the transformation was carried out:

- 1- Stitching
- 2- Lasting
- 3- Finishing

Note, that a product could be identified as "Made in France" when :

- The last substantial transformation was carried out in France. It will be necessary from now on to be transparent on what occurs throughout the stages and where that occurs.

¹ FAQ provided by French government:
<https://www.ecologie.gouv.fr/sites/default/files/FAQ-v2.pdf>

2 | MATERIAL INFORMATION

2.1 THE RISKS OF RELEASE OF PLASTIC MICROFIBERS LINKED TO THE USE OF SYNTHETIC MATERIALS

- If the percentage of synthetic fibers is higher than **50%**, this information must be include.

Example of synthetic fibers : polypropylene, polyester, polyamide, polyurethane, aramid, acrylic, elastane, polylactic acid.

- This information must be expressed as "releases plastic microfibers into the environment during washing"
FR "rejet de matière plastique dans l'environnement pendant le lavage"

2.2 THE PRESENCE OF HAZARDOUS SUBSTANCES

- If the rate of hazardous substance is greater than 0,1%, one of this regulatory information must be displayed:
 - "Contains a hazardous substance"
FR "contient une substance dangereuse"
 - or "contains a substance of very high concern"
FR "contient une substance extrêmement préoccupante"
 - Name of each substance
- Note that you can find the list of substances submitted published in Commission Regulation (EU) No. 2017/999 of 13 June 2017, Article 1

2.3 THE PRESENCE OF RECYCLED MATERIALS

- It is necessary to define: "the overall proportion by mass of materials from recycling" in your collection.
- This concerns all clothing and footwear products are included, with the exception of leather products.

This information must be expressed for your products as
"product containing at least [x%] of recycled materials"
FR "produit contenant au moins [x%] de matériaux recyclés"



3 | RECYCLABILITY

THE OBLIGATION TO MENTION THE RECYCLABLE CHARACTER OF A PRODUCT

- Recyclability = effective recycling capacity of waste from the same or similar products.
- Today, many products are designated as "recyclable" without the consumer being aware that these products do not become new clothes, but are processed for use in another way.
- This part 3 of article 13 gives you the keys to identify the level of recyclability of your products.

5 CRITERIA WILL HAVE TO BE MET FOR A GARMENT TO BE PROMOTED AS "RECYCLABLE"

1	To be collected efficiently on the whole territory <ul style="list-style-type: none">- Note that the territorial grid of the collection points of clothing and shoes set up by Re-fashion is rather important.
2	To be sorted, i.e. directed towards the adapted recycling channels
3	Not to contain elements disturbing the sorting, the recycling or limiting the use of the recycled material <ul style="list-style-type: none">- Composite materials are very complex to recycle, as well as clothing made of several materials, it often called "Points Durs". This type of garment can therefore not to be qualifier as recyclable.
4	The recycled material represent at least 50% of the mass of waste treated
5	The possibility to recycle on an industrial scale and to produce a material of sufficient quality to be used in a perennial way, for sufficient outlets. <ul style="list-style-type: none">- That is to say that the recycling sector can justify a good capacity of taking in charge the product which can be integrated.



3 AUTHORIZED MENTIONS ACCORDING TO YOUR LEVEL OF RECYCLABILITY

Condition	Authorized mention*
The 5 criteria are fulfilled	<p>"Mostly recyclable product" FR "Produit majoritairement recyclable"</p> <p>"Mostly recyclable packaging" FR "Emballage majoritairement recyclable"</p>
Criteria 4 is improved: The percentage of waste recycled into usable materials is 95%.	<p>"Fully recyclable product" FR "Produit entièrement recyclable"</p>
Criteria 5 is improved: The garment becomes a garment of the same use and quality as the original after being recycled	<p>"Product recyclable into a product of the same nature" FR "Produit recyclable en un produit de même nature"</p> <p>"Packaging recyclable into a packaging of the same nature" FR "Emballage recyclable en un emballage de même nature"</p>

The FAQ² specifies that if the product is not recyclable according to the 5 criteria, no mention is required. The producer can refrain from any mention or voluntarily indicate that the product is not recyclable.

² *FAQ provided by French government:
<https://www.ecologie.gouv.fr/sites/default/files/FAQ-v2.pdf>





CRITERIA 4 - THE ELEMENTS DISTURBING THE SORTING, I.E. "POINTS DURS"

There are 2 types of recycling disruptors:

- External disruptors : they can be separated manually or automatically
- Internal disruptors : constitutive or structural elements of the product

External disruptors

- These disruptors can be removed and eliminated during the preparation phase for recycling. This step is usually done by hand with a cutting machine.
- They disturb the recycling process: loss of material, anomalies, etc.

Function	Type
Attach	Closure, zipper, buttons, brandebourg, staple, clasp, buckle, snap, sewing thread and sewing, snap hook, hook, braid, cord, eyelet. <i>FR-Fermeture, glissière, boutons, brandebourg, agraphe, fermoir, boucle, pression, fil de couture et couture, mousqueton, crochet, tressage, cordon, oeillet.</i>
Transmit information	Woven label, printed label, leatherette label, RFID chip. <i>FR-Etiquette tissée, étiquette imprimée, étiquette simili-cuir, puce RFID.</i>
Functional character	Reflective tape, glow-in-the-dark tape, anti-slip tape, elastic band, rivet, shoulder pads, stays and collar stays, ring, foam, pocket bottom, lining. <i>FR - Bande réfléchissante, bande phosphorescente, bande anti-dérapante, bande élastique, rivet, épaulette, baleine, baleine col, anneau, mousse, fond de poche, doublure.</i>
Esthetic character	Patch, lace, embroidery, yoke, rhinestone/sequin, bead, pompom, bow, pendant, charm. <i>FR - Ecusson, dentelle, broderie, empècement, strass/paillette, perle, pompom, noeud, pendentif, breloque.</i>



Internal disruptors

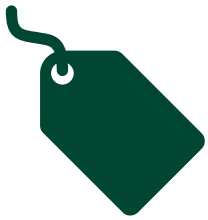
Function	Type
Composition	Elastic yarn, metal-containing yarn, elastane > 5%, dye/color, multi-component (excluding elastane) > 2. FR-Fil élastique, fil comportant du métal, élasthanne > 5%, colorant/teinture/couleur, multi-composants (hors élasthanne) > 2.
Primer	Coating, printing, gluing, flocking, chemical priming. FR-Enduction, impression, colle, flocage, apprêt chimique.
Texture	Jaquard fabric or knitwear, fabric with unraised thread, throw stitch, stretch fabric or knitwear. FR - Tissu ou tricot jacquard, tissu avec fil non élevé, maille jetée, tissu ou tricot extensible.
Assembly	Adhesives, fixed composites. FR - Adhésifs, composites fixes.
Other electrical or electronic components	



ARTICLE 15,17

IN A NUTSHELL

ARTICLE 15 – ENVIRONMENTAL LABELLING



- This article validates the implementation of an environmental display to inform the consumer, based on the life cycle analysis method.
- The current experimentation for the textile sector will lead to a decree in 2023 after the entry into force of a provision adopted by the EU with the same objective.
- The obligation of environmental display is completed in the law "Climate and Resilience" Law n°2021 1104 of 22 August 2021 Title II Article 2.

ARTICLE 17 – WASTE SORTING



- A signage of information on the rules of sorting of the product must be put in place. Several obligations accompany this approach:
 - Provide information about sorting procedures
 - If different elements of the product have different sorting procedures, the information will be detailed element by element.
 - The information must be available online.
- This article is found in the environmental code in article L. 541-9-3



ARTICLE 35

IN A NUTSHELL

ARTICLE 35 – DEADSTOCK



- Included in the environmental code in art 541-15-8, it specifies that producers, importers and distributors of new non-food products must:
 - Reuse unsold products, in particular by donating them to associations defined in article L 3332-17-1 of the labor code
 - Reuse unsold products
 - Recycle unsold products
- Nota Bene: These 3 measures do not apply if the recovery of the material is forbidden

Penalty for deadstock

Any breach of these obligations is punishable by a fine of up to 3,000 euros for an individual and 15,000 euros for a legal entity.



ARTICLE 62

IN A NUTSHELL

ARTICLE 62 – EXTENDED PRODUCER RESPONSIBILITY AND ECO-ORGANIZATIONS

Article 541-10 paragraph I of the environmental code

Who are the producers?

Any natural or legal person who develops, manufactures, handles, treats, sells or imports products that generate waste

What does extended responsibility mean?

It is to include in the responsibilities of producers:

- To be able to or contribute to the prevention and management of the waste they produce
- To adopt an eco-design approach
- To promote the extension of the life span of products, such as by giving professionals the means to carry out maintenance, reuse and repair of products.
- To contribute to the projects of improvement of the collections and treatment of their waste as well as the recycling of the waste of their products.

How?

Producers fulfill this obligation by collectively setting up eco-organizations. They ensure the governance, transfer their obligation and pay a financial contribution.

Which products are concerned by EPR in the textile sector?

(Art L 541-10-1 Code de l'Environnement)

- Textile clothing products, shoes, new household linen
- Sports and leisure items
- Furnishing and textile decoration items as well as upholstered seating or sleeping products
- Single-use sanitary textiles
- Packaging used to market the products
- Printed paper except books



GENERAL KEYPOINTS

FIRST KEYPOINT – NOT LETTING CONSUMERS BELIEVE THAT BUYING NEW CAN BE “GOOD FOR THE ENVIRONMENT”



REINFORCING THE FIGHT AGAINST GREENWASHING

According to the Article R. 541-223 of the Environmental Code:

"It is prohibited to display on a product or packaging, new to the consumer, the terms "biodegradable", "environmentally friendly" or any other equivalent environmental claim."

The definition of "equivalent claim" will be specified in the next month, currently being updated.

So, in practice what actions should you put in place?

If you are in the process of creating your brand:

Ban these formulas from your packaging, labels and communication in general (website, product sheets, packaging, etc.).

If you already have labels or packaging printed with these statements :

You have a sell-out period until January 1, 2023.

SECOND KEYPOINT - PENALTIES

NON-COMPLIANCE OR DISREGARD WITH THE OBLIGATIONS OF THE AGE C ACT IS CONSIDERED DECEPTIVE COMMERCIAL PRACTICE.

To be in line with new regulation, the Consumer Code has been amended accordingly.

- Articles 121-2, 121-3, 121-4 describing the misleading commercial practice have been enriched.
- Article 121-2³ completes the definition in including:

"The essential characteristics of the good or service, namely: its substantial qualities, its composition, its accessories, its origin, in particular with regard to the rules justifying the affixing of the terms "made in France" or "French origin" or any equivalent term, sign or symbol, within the meaning of the Union Customs Code on the non-preferential origin of products, its quantity, its method and date of manufacture, the conditions of its use and its fitness for use, its properties and the results expected from its use, in particular its environmental impact, as well as the results and main characteristics of the tests and checks carried out on the good or service [...]"

- The penalties incurred are described in article 132-2⁴:

"The deceptive commercial practices mentioned in articles L. 121-2 to L. 121-4 are punishable by two years' imprisonment and a fine of 300,000 euros"

The penalty may be increased to **10% of the annual turnover or 50% of the advertising expenditure** incurred so that the penalty is proportional to the benefit derived from the operation. The rate may be increased to 80% of the advertising expenditure incurred if the misleading claims relate to the environmental impact of the product or service [...]"

³ https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000044563114

⁴ https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000043974709

HOW WE CAN HELP A&F BRANDS & RETAIL COMPLY WITH THE AGECE LAW

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- **Environmental labeling:** AGECE (FR) and ISO 14026 (EU-27) compliant
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APPENDIX

"Code de l'environnement"

- <https://www.legifrance.gouv.fr/codes/id/LEGIARTI000041555718/2022-01-01>

Agec Law and its 130 articles:

- <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041553759/>
- Le décret n° 2022-748 du 29 avril 2022 ,
[https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045726094,](https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045726094)
- Published in the official journal <https://www.legifrance.gouv.fr/jorf/JO/2022/04/30/0101>
- Article 541-10 REP
https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000041599086/

Article 13, I	Article L. 541-9-1, code de l'environnement	Modalités d'application de l'article L. 541-9-1 du code de l'environnement, notamment la définition des qualités et caractéristiques environnementales, les modalités de leur établissement, les catégories de produits concernés ainsi que les modalités d'information des consommateurs.	<u>Décret n° 2022-748 du 29/04/2022</u>
Article 13, I	Article L. 541-9-1, code de l'environnement	Identification des substances dangereuses présentes dans les produits générateurs de déchets.	<u>Décret n° 2021-1285 du 1/10/2021</u>
Article 13, II	Article L. 5232-5, III, code de la santé publique	Modalités d'application de l'article L. 5232-5 du code de la santé publique relatif aux informations mises à la disposition du public par voie électronique par toute personne qui met sur le marché des produits qui, au terme de leur fabrication, comportent des substances dont l'ANSES qualifie les propriétés de perturbation endocrinienne d'avérées ou présumées.	<u>Décret n° 2021-1110 du 23/08/2021</u>

