



Reforming PEF governance

ECOS recommendations to the European Commission

Brussels, October 2024

ECOS has been following the development of the PEF method since 2018. We are part of the EF-subgroup of the Sustainable Consumption and Production expert group and a non-voting member of the technical secretariat tasked to draft the PEFCR for apparel and footwear. We also joined the Technical Advisory Board in 2022. Based on our experience working with standardisation committees, expert groups, and PEF working groups, we would like to present some recommendations for improving the process

Summary of recommendations

The Product Environmental Footprint is about to become a key policy instrument in assessing products' lifecycle impacts. It is paramount that its governance is improved, for it to deliver on its goals. We call for:

- **EC leadership and direct involvement**, to ensure the method's legitimacy and relevance to policy needs.
- **Binding and common rules of procedure**, to ensure the effectiveness of the process and the quality across PEFCRs.
- **More transparency**, to improve legitimacy and acceptance of the method, as well as effective participation of involved parties.
- **Effective inclusivity**, in terms of access, voting rights and funding, for PEF to fit the needs of all and not only a few industrial actors.

Introduction

The PEF methodology is expected to be increasingly used in EU policymaking. It has been mentioned as a possible background methodology to set product requirements in the new ESPR, and as a potential way to substantiate claims in the Green Claims Directive. Indeed, life-cycle assessment (LCA) can be a useful decision-making tool for companies to design their product better while managing trade-offs. Beyond the company level, policymakers can also use it to identify a given product's most significant impact categories and, therefore, to set the right priorities when drafting legislation. We welcome the mention of PEF in legislation instead of referring to international LCA standards such as ISO 14044. This is because the current standard offers so much flexibility that comparability between LCA studies is greatly reduced. If LCA is to be used in legislation, we need a harmonised methodology to ensure equality in front of the law.

In this regard, the development of the PEF method over the years is a key achievement. However, **as it becomes an official regulatory tool, we need its process and governance to be strengthened.**

We need Commission leadership

The PEF's legitimacy stems from being a European Commission's initiative. Beyond market representativity, what guarantees the results' adequacy and legitimacy is that it is led by a public institution that drives the process based on legislative needs. The industry already has a forum for creating its own LCA method, which is the standardisation system. **The added value of the PEF truly lies in being a public initiative.**

Indeed, developing a product specific LCA methodology involves choices that will impact the LCA study results. **If the LCA study is meant for policymaking and policies, policymakers should be in the driving seat.** Economic actors will advocate for the methodological choices that will make their product look the best without this being backed up either by science or considering environmental risks.

A good example of this is the debate around LCA methods to account for biogenic carbon content stored in bio-based products, where the biobased industry advocated for a method that would not only give a bonus to long-lasting storage of carbon in products but also to short-lived applications which will not actually have a long-term impact on carbon storage, to create a market advantage for their fast-moving products. This was notably the result in ISO standards, which are industry-led fora. The reason PEF has so far not gone down this road is for us a direct consequence of PEF being more science-based and science-led. If the PEF governance were to give a stronger role to the industry, this is bound to change. For this reason, it is paramount that the Commission is strongly involved in developing the overarching PEF methodology and the specific PEFCRs and OEFCRs.

Technical Advisory Board and involving stakeholders

The Commission has expressed its desire to reduce the membership of the TAB. While we do not oppose the idea that a TAB composed of a limited set of LCA experts may better address the needs of this forum, the Commission must ensure that they are clearly independent and free of conflicts of interest.

In addition, this should not come at the cost of involving a broader set of actors. We strongly recommend the creation of a second forum for Member State representatives, professional associations, and civil society to be involved in the discussions and informed on the progress of PEF activities. **Wider input is especially important when linking PEF technical decisions to policy use, which will have an impact of society as a whole.** As mentioned above, while some aspects of LCAs are of a purely technical nature, others require choices related to the intended use of the method. If the method is to be used for policies, democratic oversight and a balanced representation of stakeholders are necessary.

We believe that the creation of this forum is crucial. The alternative would be to simply hold these discussions in existing forums (e.g. ESPR's Ecodesign forum). This might not be effective: they will focus on solutions that fit that one policy need instead of helping to find solutions that can fit several policies.

When involving stakeholders, the Commission should ensure that they are meaningfully consulted early in the process so that inputs stand a realistic chance of being included. Letting experts review final drafts or foreseeing tight deadlines to comment would have little added value and result in low response rates. Allocating funding for civil society actors is also necessary to ensure they can engage on this topic.

The Commission may also consider that joining TAB discussions is an opportunity for other actors to understand better the technical decisions and methodological choices, which is important for political buy-in.

EC leadership in Technical Secretariats for PEFCR/OEFCR

We strongly recommend that the Commission takes a leading role in all PEFCRs. Beyond convening the meetings, the Commission must be an arbiter in the technical secretariats' meetings to ensure constructive exchanges and the respect of competition rules. In addition, when the TS sets up smaller working groups to tackle specific issues, the EC should join these working groups when a member of the TS requests it due to the sensitivity of the topic. Indeed, while there might be less need for the EC to be actively involved in specific working groups, it may happen that the topic leads to strong disagreement among members, who are not all, by definition, involved in the working group. In such a case, it is better if the EC acts as an arbiter there as well, as decisions taken during working groups are not expected to be fully reopened for debate when presented at the TS meetings. This will prevent working groups from becoming a way for the most involved and powerful members of the TS to bypass disagreements from the plenary and write one-sided compromises.

The JRC should lead the drafting of PEFCRs, to ensure a more scientific and impartial approach. When an industrial actor leads discussions, they tend to favour solutions they are familiar with and benefit the actor they represent. This results in a choice of PEFCR topics with limited value, and content that fits the interest of participants rather than society at large. It also has no added value compared to standardisation. On the contrary, when the JRC leads studies such as the study on LCA for alternative feedstocks for plastics production¹, they tend to be more impartial and address technical issues more thoroughly.

Additionally, it would be helpful to appoint a JRC contact person in each technical secretariat, that experts can contact to ask technical questions, as done for example with the Platform on Sustainable Finance in its Technical Working Group. Commission's representatives can liaise with DGs working on the topic, which is especially useful to ensure the coherence of PEFCRs with policy objectives and upcoming legislation.

Effective participation requires better rules of procedure

Based on our experience with the Apparel and Footprint technical secretariat, we have noted a series of issues that led to delays, ineffective meetings and decisions, conflicts, and, as a result, a growing rejection of PEFCRs. This rejection was especially visible in the debates leading up to the Green Claims Directive, where there was no sufficient support for PEF to be included as the go-to method to substantiate claims. ECOS and other NGOs have also expressed concerns regarding the Apparel and Footprint PEFCR process.² We believe that some of these issues could be solved with more appropriate rules of procedure. **The goal is to achieve open, transparent, and inclusive processes.**

The rules of procedures should be sufficiently detailed and publicly available for both the TAB and the technical secretariats. In the case of technical secretariats, **it is critical to harmonise them to ensure an even quality across PEFCRs/OEFCRs.** Detailed rules should also aim to avoid grey areas that vested interests may exploit. We want to insist that **the absence of rules and clear processes, the use of ineffective tools and the reduction of timelines lead to an unfair advantage for the loudest actors.**

Technical advisory board

TAB meetings would benefit from physical meetings once or twice a year, over one or two days. Physical meetings are very effective in moving discussions forward and reaching a consensus. For example, despite the clear benefits of online meetings, ISO is now returning to in-person meetings, sometimes with no hybrid option, for this very reason. It will also make it easier for participants to obtain a budget from their employer than for short ad hoc requests throughout the year. This was mentioned by ADEME and is expected to be valid for most public administrations.

¹ <https://op.europa.eu/en/publication-detail/-/publication/673ee8ef-cfdd-11eb-ac72-01aa75ed71a1/language-en>

² https://ecostandard.org/wp-content/uploads/2022/10/Civil-society-open-letter-The-PEF-methodology-and-its-application-to-apparel-and-footwear-products_2022.pdf

Technical secretariats for PEFCR/OEFCR

Creation of a technical secretariat and membership

Selecting a topic

The selection of products (and definition of the functional unit) of **PEFCRs should be chosen not based on industry demand but on policy needs** to ensure that the required methods are developed to maximise environmental impacts, rather than diverting resources to irrelevant topics. In particular, we have seen some PEFCR be developed for products with little added value to society and very narrow definitions of the functional unit (e.g. single-use flexible packaging), which do not allow comparison with meaningful alternatives (such as reusable packaging).

Access rules

The rules for joining a technical secretariat should be common to all PEFCR/OEFCR, be publicly available, and not change after a TS has started working. Currently, these rules are not public and have changed from TS to TS. Worse even, in the case of the apparel and footprint TS, the rules changed mid-way through drafting the PEFCR (preventing, as a general rule, the entry of newcomers). The rules should **enshrine equal access to technical secretariats**, regardless of the actor's category. All actors likely to be impacted by the result of the PEFCR should have a right to participate in its drafting.

Voting rights

Similarly, there should be **equal voting rights**. Considering that this is a public policy process hosted by the Commission, there is no reason to restrict voting rights to certain stakeholders, even more so if it is to restrict it to some industrial actors. **Voting rights should not be linked to paid contributions**. The apparel and footwear case sets a wrong precedent, with a price of voting rights discriminating even for professional associations. Forcing the industry to pay for the PEFCR creates an incentive to draft it so that it enables a return on investment for those who paid. Hence, it risks rubberstamping as sustainable the current status quo in the sector.

Funding for inclusivity

For PEFCRs to fit the needs of policies and general interest, oversight from elected officials, public administrations and civil society is needed. This is why it is important to ensure that solutions exist to facilitate their participation. Equal and free access as well as voting rights are among them, besides efficient processes, as described below. We also want to bring your attention to the funding issue. **Public funding should be made available for civil society to engage**. Based on our experience, an active PEFCR technical secretariat can require up to 1 FTE at the most intense drafting phase. In the case of apparel and footwear, in some periods, there were up to 11 meetings per month, when counting all working groups. Ideally, funding should cover both meeting attendance and preparation time, to ensure the drafting of comments by technical experts. The lack of funding also explains the low capacity to provide timely comments in the TAB.

Drafting process and meeting rules for technical secretariats

The drafting process should be transparent, and effective rules should be in place to facilitate the participation of all actors, especially from civil society and Member states. They should be actively involved before the final draft, and contribute to meetings and drafting, beyond the public consultation procedure.

It is best to avoid rushing if the timeline is no longer realistic. This can lead to poor results that will not be accepted by most actors. Having the Commission more involved in meetings would also help in understanding when deadlines need to be postponed or ensure that potential delays are anticipated soon enough and addressed to avoid postponement.

Drafting timeline

The current practice in the Apparel and Footprint PEFCR is that the facilitator presents supportive studies and recommendations for voting at the same meeting where the voting questions are defined. This does not allow members to reflect on the results of the study or the recommendations, and debate meaningfully on the voting questions. We suggest an alternative timeline:

- A first TS meeting is organised, to present and discuss the results of the study and the recommendations.

- A 4-week commenting period is launched, where TS members can share written comments.
- A second TS meeting is convened to debate based on the comments received and draft the final voting questions. There should be an obligation to address all comments provided. If all comments can not be resolved in the foreseen time, more meetings should be set up. If this is not possible, there should at least be written feedback from the facilitator to each comment.
- The vote takes place 2 weeks after.

Documentation

- When the Technical secretariat facilitator drafts the PEFCR/OEFCR, they should make the latest version of the draft available to TS members at all times to keep track of drafting decisions and advancement. This is more transparent and efficient than having these only recorded in minutes.
- Members should be using a common commenting template to provide written comments ahead of the meeting. Considering the number of participants in a TS, we do not recommend sharing a common online document to comment directly (e.g. a Google Drive text file), as this does not provide an efficient way to show competing proposals over the same paragraph, reducing the possibility for debate. The commenting template should include spaces for proposed changes and justifications.
- All comments received, as well as the feedback to all comments should be available to all TS members. All comments should be shared ahead of the meeting where they will be addressed. The feedback and decisions taken on the comments should be shared as an annexe to the meeting's minutes.
- Meetings minutes should also record each decision. When a vote takes place, results should be recorded. Those who voted for the option that was not retained and those who chose to abstain should have a right to add written opinions annexed to the report (as is currently the practice in the Ecolabelling board). Minutes of the Technical Secretariat meetings should be publicly available.

Working groups

In general, a PEFCR/OEFCR should have a realistic timeline, which does not depend on the creation of working groups. Ideally, all discussions should take place in TS meetings, where all the members can contribute. If working groups are absolutely needed, then their number should not exceed what members can attend, and overlapping meetings should be avoided.

WG rules

Working groups should follow common rules, on the model of those proposed for the technical secretariat. They should in no way be used to bypass the procedures of the technical secretariat, and provide the same level of rigour. Notably, WG discussions should be recorded in minutes, which should be shared with the whole secretariat. Minutes should be available at least a week ahead of the TS meeting where the conclusions will be discussed.

The current practice of presenting WG conclusions as a “take it or leave it” vote to TS members, without reflection or time for updates, significantly reduces the inclusivity and representativity of TS decisions. This is even more the case if overlapping meetings hamper participation in WGs. Therefore, WG conclusions should be debated at the TS level, and should not preclude TS decisions. They should facilitate the discussion, not pre-empt it. There should be an option to vote on an updated conclusion based on the debate at the TS level.

Timeline for adopting WG conclusions

- The working group shares its minutes a week ahead of the meeting where its conclusions are to be presented.
- The working group presents its conclusions and recommendations at a TS meeting, with time for questions from the TS members.
- A 4-week commenting period is launched, where TS members can share written comments on the conclusions and make alternative propositions. The same commenting template as mentioned earlier is used.
- A second TS meeting is convened to debate based on the comments received and draft the final conclusions and voting questions. There should be an obligation to address all comments provided. If all comments cannot be resolved in the foreseen time, more meetings should be set up. If this is not possible, there should at least be written feedback from the facilitator to each comment.
- The vote takes place 2 weeks after.