



## From sustainability to sobriety

Valentin Baudouin

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### From sustainability to sobriety

*Do not think of yourself more highly than you ought, but rather think of yourself with sober judgment*<sup>1</sup>  
Saint-Paul

Considering the current ecological crisis,<sup>2</sup> the concept of sustainable development, or 'sustainability' appears to have failed to meet the goals laid out by its authors at the 1992 Earth Summit of Rio de Janeiro.<sup>3</sup> Sustainable development was originally perceived as the torchbearer of a new project,<sup>4</sup> a new hope of protecting humanity's general interest,<sup>5</sup> a 'magic formula meant to reconcile free trade, economic growth and environment'.<sup>6</sup> As it turns out, the contradiction inherent in sustainable development has never been wholly resolved: 'In Rio, some countries talked about the environment only, whereas others talked about development only'.<sup>7</sup> Today, a sense of scepticism, of wariness towards a 'superficial ecology',<sup>8</sup> reflects the failure of sustainable development to fulfill its original mission of preserving the environment, having ultimately become a simple foil for 'soft' economic growth, also known as 'green growth'. In other words, development has prevailed over sustainability. Multiple technologies and 'low-tech innovations'<sup>9</sup> have been developed to curb the adverse effects of economic growth, but they never genuinely challenge the imperative of growth.<sup>10</sup> This raises the question of what kind of economy and by extension what kind of

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<sup>1</sup> SAINT PAUL, *Epistle to the Romans*, AD 57, 12-3 (NIV translation), '*Non plus sapere quam opertet sapere, sed sapere ad sobrietatem*'.

<sup>2</sup> Already diagnosed in the 1970s (WHITE Lynn Townsend, 'The Historical Roots of Our Ecological Crisis', *Science*, vol. 155, n°3767, 10 mars 1967, pp.1203-1207), the crisis is an increasingly serious concern, fuelled by alarming recent reports on global warming (Intergovernmental Panel on Climate Change (IPCC), *Special Report on Global Warming of 1.5°C*, 8 Oct. 2018) and biodiversity collapse (DUROUSSEAU Michel, « Le constat : la biodiversité en crise », RJE, 2008, hors-série, pp. 11-19).

<sup>3</sup> UNCED, Rio Declaration on Environment and Development, Agenda 21, Framework Convention on Climate Change, 14 June 1992; BRUNDTLAND Gro Harlem (ed.), World Commission on Environment and Development, *Our Common Future*, report, 20 March 1987, 383 p.: 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'.

<sup>4</sup> Commission française du développement durable, *Contribution au débat national sur le développement durable. Eléments de bilan*, Rapport 1996, 239 p., spéc. 3, 'Foreword': 'Sustainable development is a new project that also concerns the economic and the social, and encompasses global decision-making process as well as individual behaviours'.

<sup>5</sup> KISS Alexandre, « Introduction: le développement durable, intérêt général de l'humanité », in *Le développement durable et le concept d'intérêt général*. CNRS, Programme interdisciplinaire de recherche sur l'environnement, 1991-1992, Contribution à la 2ème session du séminaire. Strasbourg, 24-25 juin 1991, Centre du droit de l'environnement, Université R. Schuman, p.i

<sup>6</sup> DELMAS-MARTY Mireille, « Anticiper et responsabiliser : la métamorphose du droit face aux risques incertains », in MARTIN-CHENUT Kathia, QUENAUDON René de (dir.), *Développement durable : mutations ou métamorphoses de la responsabilité*, préc. p.22.

<sup>7</sup> DI CASTRI Francesco, « Je me place plutôt du côté négatif », cité in Commission française du développement durable, *Contribution au débat national sur le développement durable. Eléments de bilan*, Rapport 1996, 239 p., spéc. 15.

<sup>8</sup> POPE FRANCIS, Encyclical Letter *Laudato Si'*, *On Care For Our Common Home*, 18 June 2015.

<sup>9</sup> See for instance, *Le Monde économie*, « Le "low-tech" sera-t-il l'avenir de l'humanité », 12 September 2016, by Béatrice Madline.

<sup>10</sup> V° POTTIER A., *L'économie dans l'impasse climatique : développement matériel, théorie immatérielle et utopie auto-stabilisatrice*, Paris, Ecole des hautes études en sciences sociales, Centre international de recherche sur

future we want, at odds with the fatalistic view that we are ‘destined to produce not only goods, but also new servitudes’.<sup>11</sup>

While these ‘technological revolutions’ may be desirable, some authors see such projects as mirages in that they suggest that energy transition is possible without drastically reducing consumption.<sup>12</sup>

‘the most reckless ones essentially never raise the question of natural resources and raw materials: where will rare earths, plastics, steel, aluminium, copper, gold, silver, construction materials, etc., come from? The most flagrant example of this is certainly the construction of a car factory by the company Tesla, whose annual production of half a million of battery-operated electric cars would absorb the current global production of lithium-ion.’<sup>13</sup>

Paradoxically, it appears that reducing the reliance of some resources causes increased dependence on others, as in the case of the ‘dematerialised’ economy, which accounted for 7 per cent of the world’s electricity consumption as of 2017 according to Greenpeace.<sup>14</sup>

Sobriety – from the Latin *sobrietas* – in the sense of caution, moderation, temperance or frugality, as opposed to ‘sustainability’ understood as green growth as the only possible horizon, should help us conceive a different approach to environmental protection. This involves no longer only limiting the consumption of natural resources, but seriously considering not using them all.<sup>15</sup> Generally, sobriety should be conceived functionally, meaning that it is liable to change behaviours. Drawing on such an approach, the introduction of an ‘environmental ceiling’ and a ‘social foundation’ has been suggested to work towards a ‘resilient’ development,<sup>16</sup> tackling a wide range of issues, including environmental inequalities.<sup>17</sup> Is the idea of sobriety a new concept that may allow us to resolve the contradictions inherent in the sustainable development concept? Can it help change behaviours in law?<sup>18</sup> Beyond the concept itself, can it be implemented by a variety of economic actors, especially firms? To answer these questions, this paper will first show that sobriety is actually an old concept that is currently experiencing a renewal (I) and then examine illustrations of it in various branches of French law (II).

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l’environnement et le développement, Thèse, 2014, p.474 : ‘The spirit of capitalism produces unprecedented material wealth but it is also destroying the arts of life that Keynes cherished so. The arts of life are among the desirable goods that men must seek to lead a good life.’

<sup>11</sup> ZAFRANI Avishag, « Quelle économie pour quel avenir ? Hans Jonas et la responsabilité », *Arch. phil.*, 2016/3, t.79, p.192: ‘Technological power not only creates a new field of possibles for human agency, it also introduces new necessities, new needs, that always come before the question of whether they are desirable is posed. As a result, following economic impulses, we are destined to produce not only goods, but also new servitudes.’

<sup>12</sup> BOMMIER S., RENOARD C., *L’entreprise comme commun, Au-delà de la RSE*, Ed. Charles Léopolds Mayer, février 2018, p.250 ff.

<sup>13</sup> Ibid, citing Stephanie Yang and Biman Mukherji, ‘Tesla shakes up market for lithium, other metals », *The Wall Street journal*, May 5, 2016.

<sup>14</sup> Ibid, citing Gary Cook et al., ‘Clicking clean: who is winning the race to build a green internet?’, Washington: Greenpeace, 2017.

<sup>15</sup> BIHOUIX Ph., *L’âge des low tech. Vers une civilisation techniquement soutenable*, Seuil, 2014, p.114.

<sup>16</sup> Kate Raworth, “A Safe and Just Space for Humanity”, Oxfam Discussion Papers, 2012 [online] <https://www.oxfam.org/sites/www.oxfam.org/files/dp-a-safe-and-just-space-for-humanity-130212-en.pdf>

<sup>17</sup> See LARRERE C., *Les inégalités environnementales*, PUF, coll. La vie des idées.fr, 2017.

<sup>18</sup> BOURG D., PAPAUX A., *Vers une société sobre et désirable*, PUF, 2010.

## I. Sobriety – an old concept experiencing a renewal

Although sobriety is not defined by French law, legislators have used the terms sobriety and sober in the field of the ecological transition since 2012, with the adoption of a 2015-2020 national strategy for ecological transition towards a sustainable development, designed to ‘bring about the emergence of a new model of society, combining economic, ecological and human progress’.<sup>19</sup> The word sobriety appears in that document, as well as in various legislations pertaining to environmental protection. While it may appear recent, the concept is not new.

The idea of sobriety was already in use in Ancient times, when the Greek wrote of temperance (*sophrosyne*), as opposed to *hubris*, meaning *immoderation*, excessive behaviour considered as a vice, as a moral failing. Temperance was one of four cardinal virtues in human action, alongside prudence or wisdom, fortitude or courage and justice. Hence, the Greek adage *pan metron* calls for ‘moderation in all things’. The Romans conveyed the same sense of temperance and moderation with the maxim *Aut facio hoc moderate, et possum, aut facio hoc immoderate, et non possum*, which translates as ‘either I do this with moderation, and then I can, or I do this in an immoderate manner, and then I cannot do it’. Sobriety was also perceived in terms of health; the Latin adage *medicorum nutrix est intemperantia*, attributed to Publilius Syrus, contends that intemperance is the physician’s provider. Likewise, in 1558, the Italian Luigi Cornaro wrote: ‘The man, also, who is of a bad constitution, may, by dint of reason and a regular and sober life, live to a great age and in good health’.<sup>20</sup> Sobriety is also present in the Christian religion, in which the indulgence controversy was a major juncture. Indulgences were a lucrative trade for the Church, which promised a reduced number of years in purgatory in exchange for sums of money, a practice denounced by Martin Luther in his *Ninety-Five Theses* (1517),<sup>21</sup> one of the triggers of the Protestant Reform in the early sixteenth century, followed by Calvinism – both stressing the importance of asceticism in everyday life.

During the Enlightenment and the French Revolution,<sup>22</sup> the neighbouring term frugality was perceived as a means to ensure democracy. To Montesquieu, equality and frugality were inseparable: ‘The love of equality, in a democracy, limits ambition to the sole desire, to the sole happiness, of doing greater services to our country than the rest of our

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<sup>19</sup> French Ministry of ecology, sustainable development, *Stratégie nationale de transition écologique vers un développement durable 2015-2020*, adopted by the Council of Ministers on 4 February 2015, p.127: ‘Ecological transition: evolution towards a new economic and social model, a model of sustainable development that renews our ways of consuming, producing, working, living together to face major environmental challenges; those of climate change, resource scarcity, accelerated biodiversity loss and multiplying environmental health risks.’

<sup>20</sup> CORNARO L., *Discourses on the Sober Life. How to Live 100 Years*, 1558.

<sup>21</sup> LUTHER M., *Disputatio pro declaratione virtutis indulgentiarum*, Wittenberg, 1517. The following theses are particularly important: ‘27. They preach only human doctrines who say that as soon as the money clinks into the money chest, the soul flies out of Purgatory. 28. It is certain that when money clinks in the money chest, greed and avarice increases; but when the church intercedes, the result is in the hands of God alone. 45. Christians are to be taught that he who sees a needy man and passes him by, yet gives his money for indulgences, does not buy papal indulgences but God’s wrath. 46. Christians are to be taught that, unless they have more than they need, they must reserve enough for their family needs and by no means squander it on indulgences. 47. Christians are to be taught that they buying of indulgences is a matter of free choice, not commanded. 48. Christians are to be taught that the Pope, in granting indulgences, needs and thus desires their devout prayer more than their money. 56. The true treasures of the Church, out of which the Pope distributes indulgences, are not sufficiently discussed or known among the people of Christ. 57. That indulgences are not temporal treasures is certainly clear, for many indulgence sellers do not distribute them freely but only gather them.’

<sup>22</sup> OUTREPONT Ch.-L. D’, *Discours sur la frugalité*, prononcé au temple national de Bruxelles, le 10 ventôse de l’an troisième., Ed. impr. De G. Huyghe, 1795; see also MONTESQUIEU, *De l’Esprit des lois*, éd. Nourse, 1772, T. 1, Livre V chapitre VI - Comment les lois doivent entretenir la frugalité dans la démocratie, pp. 56-57.

fellow-citizens', whereas 'The love of frugality limits the *desire of having*, to the study of procuring, necessities to our family, and superfluities to our country. Riches give a power which a citizen cannot use for himself, for then he would be no longer equal. They likewise procure pleasures which he ought not to enjoy, because these would be also repugnant to the equality.' Montesquieu argues that in order for individuals to aspire to this love of equality and frugality, they need to enjoy it, and thus laws must establish equality and maintain frugality: 'It is not sufficient, in a well-regulated democracy, that the divisions of land be equal; they ought also to be small (...). As equality of fortunes supports frugality, so the latter maintains the former. These things, though in themselves different, are of such a nature as to be unable to subsist separately: they reciprocally act upon each other: if one withdraws itself from a democracy, the other surely follows it.'<sup>23</sup> While Montesquieu thought of the absence of equality and frugality as a threat to democracy itself,<sup>24</sup> the same could be said today of the absence of sobriety.

With the industrial revolution and the rise of capitalism came a historically unprecedented shift towards an immoderate accumulation of goods. Then, in the 'glorious' post-war years,<sup>25</sup> the first challenges to a system based on exponential growth and its nefarious consequences were voiced. In the wake of the events of May 1968 and of the mobilization of part of French society, the Club of Rome published a report entitled *The Limits to Growth* (1972), which pondered the limits of infinite growth in a finite world.<sup>26</sup> In 1987, the Brundtland report highlighted the idea of 'sustainable development', which would be picked up at the 1992 Earth Summit, understood as development that meets present needs without compromising the ability of future generations to meet theirs.

In French law, since 2005, the Charter for the Environment, which was literally grafted onto (*adossée*) the Constitution of 4 October 1958, indicates in its preamble that 'Biological diversity, the fulfilment of the person and the progress of human societies are affected by certain types of consumption or production and by excessive exploitation of natural resources'. The phrase 'excessive exploitation' conveys the idea of immoderation and of a necessary return to sobriety to ensure a sustainable development. Likewise, Article 191 of the Treaty on the Functioning of the European Union (TFEU) states that the EU's environmental policy shall contribute to the pursuit of objectives such as the 'prudent and rational utilisation of natural resources'. The idea of sobriety is thus present in these texts even though the actual term is not used. At any rate, the objective of sustainable development inscribed in the Charter for the Environment involves the concept of sobriety. This calls for establishing what role the latter plays in French law – which legal materials and texts translate

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<sup>23</sup> MONTESQUIEU, *The Spirit of Laws*, Cambridge University Press, 1999, (1777), edited by A.M. Cohler, B.C. Miller and H.S. Stone, Volume 1, Book V, Chapter VI, "In what manner the laws must maintain frugality in a democracy". Montesquieu illustrates his argument with a reference to Roman soldiers who asked for a bigger portion of conquered land than was necessary to feed a man (Plutarch, *Moral works*, *Lives of the ancient Kings and Commanders*).

<sup>24</sup> *Ibid.* To Montesquieu, the 'spirit of commerce' itself does not bring the inconveniences of inequality; 'excessive wealth destroys the spirit of commerce'. 'In order to support this spirit, commerce should be carried on by the principal citizens: this should be their sole aim and study; this the chief object of the laws: and these very laws, by dividing the estates of individuals in proportion to the increase of commerce, should set every poor citizen so far at his ease, as to be able to work like the rest; and every wealthy citizen in such a mediocrity, as to be obliged to take some pains either in preserving or acquiring a fortune.'

<sup>25</sup> The French phrase *Trente Glorieuses*, referring to the country's years of unprecedented growth and prosperity between 1946 and the 1974 oil shock, was coined by the economist Jean Fourastié. FOURASTIÉ Jean, *Les Trente Glorieuses : ou La révolution invisible de 1946 à 1975*, Paris, Pluriel, 2011 (first published 1979).

<sup>26</sup> DELAUNAY J., « Halte à la croissance ? », *Enquête sur le Club de Rome et Rapport sur les limites de la croissance* par MEADOWS Donella H., MEADOWS Dennis L., RANDERS Jorgens, BEHRENS III William W du Massachusetts Institute of Technology, trad. de l'anglais par DELAUNAY Jacques, Coll. Ecologie, Fayard, 1972

the concept of sobriety?

## II. Sobriety in French law

Based on the objective of the pursuit of a ‘prudent and rational utilisation of natural resources’ laid out by Article 191 of the TFEU, two types of sobriety can be identified. The first is quantitative sobriety – using natural resources less or *prudently* - (A); the second is qualitative sobriety – using natural resources better or *rationally* - (B). It should be noted, however, that sobriety does not only pertain to natural resources; it may also relate to the use of new technologies liable to affect human health or the environment. These two types of sobriety may thus exist cumulatively in several areas of law, such as the sectors of energy, health, consumption, telecommunications, food and public procurement. Depending on the area in question, they may concern the State, local authorities and/or firms.

### A. QUANTITATIVE SOBRIETY

The objective of ‘prudent utilisation’ calls for the quantitative limitation of the use or harvesting of resources and of emissions resulting from the production of goods and services into the water, the air and the ground that may affect living beings. This objective is now relevant in several areas. The Law no. 2015-992 on Energy Transition for Green Growth provides for the reduction of energy consumption. The Law amended the Energy Code, whose Art. L100-1 1° now holds that:

‘Energy policy: 1° Favours the emergence of a competitive, job-rich economy by mobilising all industrial sectors, including that of green growth, defined as an environment-friendly mode of economic development, both **sober** and efficient in terms of energy and resource consumption, socially inclusive, boosting the potential for innovation and ensuring the competitiveness of firms.’

To apply this article, the State and local authorities have been asked to enlist firms, non-profits and citizens in working towards *energy sobriety*, meaning reducing energy needs, which involves improving energy efficiency and adopting new measures (energy classification for products, energy performance diagnosis,<sup>27</sup> European energy labelling<sup>28</sup> for lightbulbs and household appliances such as washing machines, dishwashers and fridges).

In France, the so-called ‘green growth’ law of 17 August 2015 has further prioritised waste prevention, which consists in reducing the quantity and noxiousness of waste through measures impacting both production methods and consumption<sup>29</sup> (Extended Producer Responsibility)<sup>30</sup>, combating excessive packaging by having producers contribute for each

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<sup>27</sup> For instance, mentioning the energy efficiency class of a property is mandatory when it is being sold or rented. Article \*R134-5-1, French code of construction and housing.

<sup>28</sup> Art. L 122-11, French consumer code, established by Order no. 2016-301 of 14 March 2016: ‘When advertising materials, regardless of their support, present products subject to European energy labelling and indicate their retail price, they must include a mention of the energy efficiency class of these products, which is to be as visible, legible and intelligible as the indication of their retail price.’; Directive 2010/30/EU of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products. Directive 2010/30/UE has been replaced with a European Council regulation (26 June 2017) for clearer energy labelling, replacing the A+, A++ and A+++ classes with a simpler A to G scale.

<sup>29</sup> Art. L 541-1 and L541-1-1, French environmental code.

<sup>30</sup> Art. L 541-1-I-3° and L541-10-II, French environmental code.

consumer sales unit.<sup>31</sup>

Sobriety does not only concern the harvesting and consumption of natural resources. Service activities may indeed also cause harmful effects and pollution.

Sobriety has for instance been promoted in the telecommunications sector, where reduced public exposure to electromagnetic fields is being pursued. For instance, it has become mandatory for facilities offering a Wi-Fi access to the public to indicate this on a sticker placed at the entrance.<sup>32</sup> The law no. 2015-136 of 9 February 2015 on **sobriety**, transparency, information and communication on exposure to electromagnetic waves, also known as Abeille law, provides for the French frequency agency to place a map of existing relay masts at the public's disposal at municipal level. Lastly, it remains mandatory to inform customers about the specific absorption rate (SAR)<sup>33</sup> of each wireless telecommunications equipment and of about the precautions to take in using them.<sup>34</sup>

Fighting food waste has also been a recent concern for legislators, who have introduced an obligation for the State, public establishments and local authorities to implement measures to reduce food waste in catering.<sup>35</sup> A new offence has also been introduced in the French environmental code, providing for penalties for the removal of still edible foods from the market.<sup>36</sup>

Lastly, where quantitative sobriety is concerned, Article L101-2 of the French urban planning code provides that public authorities in matters of urban planning shall act in compliance with goals such as 'controlled urban development' and with an 'economical use of natural spaces'.

## B. QUALITATIVE SOBRIETY

For producers of goods and services, reducing the amount of natural resources used is necessary but not enough in itself. Curbing the harvest of natural resources may be praiseworthy, but their **rational utilisation** is also crucial. Below, I present several legislative illustrations of this in the areas of food, consumption and public procurement.

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<sup>31</sup> Ibid, Appendix 1, on consumer sales units: 'Consumer Sales Unit': a conditioned product unit that a consumer can buy separately. For the application of the present specifications, each "POS" and shipping packaging is considered as an independent unit, equivalent to a CSU. The CSU may be composed of different elements from different materials.'

<sup>32</sup> Article 184 of law no. 2010-788 of 12 July 2010 (Grenelle II), as amended by law no. 2015-136 of 9 February 2015 on sobriety, transparency, information and communication on exposure to electromagnetic waves provides that in order to ensure the sobriety of public exposure to electromagnetic fields: 1° Instruction for use of radio-electric terminal equipment shall include clear information on practical indications for activating and de-activating wireless internet access; 2° Equipment emitting electromagnetic fields exceeding a threshold set by decree shall not be installed on private premises used for housing purposes without clear and legible information to occupants as to the presence of radiation, and when appropriate, recommendations for minimising exposure to radiation; 3° Establishments offering Wi-Fi access to the public shall indicate this clearly by affixing a sticker at their entrance.

See also Article L32-1-II-9° of the French postal and electronic communications code: 'Within the framework of their respective powers, the Minister in charge of electronic communications and the regulatory authority for postal and electronic communications shall, in objective and transparent conditions, take reasonable and proportionate measures to reach the following goals: (...) 9° The sobriety of public exposure to electromagnetic fields'.

<sup>33</sup> French postal and electronic communications code, art. R9: "Specific absorption rate" shall be understood as the rate at which the energy produced by an equipment is absorbed per mass of body tissue, expressed in watts per kilogram (W/ kg), measured over the whole body, or on one of its parts'.

<sup>34</sup> French postal and electronic communications code, Art. R20-10.

<sup>35</sup> French environmental code, Art. L541-15-3.

<sup>36</sup> See articles L541-15-5 and L541-15-6-III of the environmental code.

Concerning **food**, a bill (no. 3280, submitted to the National Assembly on 25 November 2015 and still under discussion as 19 February 2018) aims at promoting the reliance on local and sustainable foods. The bill's main article provides for the creation of a new article L 230-5-1 in the French rural and maritime fishing code, which reads: 'In a manner consistent with the food policy objectives defined in Article L. 1 of the present code, by 1 January 2020, the State, local authorities and public facilities shall in the meals served in their catering operations include 40 per cent of sustainable food products, i.e., produced under labels certifying quality and origin or featuring prestige-enhancing indications, defined by Article L. 640-2 of the rural and maritime fishing code, coming from short supply chains or meeting sustainable development criteria, including the seasonality of produce. 20 per cent of the products served shall result from organic farming.' Farming businesses will undoubtedly have to change their practices to be able to meet the demands of sustainable food for catering in facilities owned by the State, local authorities or public institutions. It is also conceivable that catering facilities owned by private parties could spontaneously take similar measures, or be subject to similar regulation in the future.

Concerning **consumption** in a broader sense, a legislation aimed at combatting **planned obsolescence** has recently been adopted. Indeed, sobriety calls for not systematically replacing a faulty product, but instead repairing it and providing for the availability of the parts needed to repair it. Therefore, developing a non-repairable product is now punishable by law: planned obsolescence has been defined, prohibited and made an offence under Article L441-2 of the consumer code.

Planned obsolescence has been defined as the recourse to techniques aimed at deliberately reducing the lifespan of a product so as to increase its replacement rate.

Combatting unplanned obsolescence, however, poses a bigger challenge. Indeed, an increase in product replacement rates may be simply due to technological innovation, making it obsolete and encouraging replacement (this is particularly visible in the field of new technologies).<sup>37</sup> This is also the case when the product becomes passé because of its design or fashion (cars, clothes), which calls for educating the consumer to prefer products that are less sensitive to trends.

To support the fight against planned obsolescence, a law has provided for mandatory pre-contractual consumer information as to the period during which spare parts indispensable for the use of the purchased good are available.<sup>38</sup> In the same spirit, in the automobile sector, decree no. 2016-703 of 30 May 2016 relating to the use of spare parts from the circular economy, allows the consumer to be informed, when their vehicle is undergoing maintenance or repairs, about the possibility of opting for spare parts from the circular economy instead of new ones. These parts may for instance come from licensed centres for the treatment of end-of-life vehicles (ELV), and be reconditioned for reuse in a 'standard exchange'. This applies for instance to optical parts, removable body parts, brakes and steering components.<sup>39</sup> This means saving non-renewable resources, energy and raw materials for the environment, and

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<sup>37</sup> See Thierry LIBAERT, Ed. *Les petits matins*, Institut Veblen, 2017. The author for instance calls for displaying the life spans of products.

<sup>38</sup> Law no. 2014-344 of 17 March 2014 on consumer protection. See. Art. L111-3 of the consumer code.

<sup>39</sup> The provisions of this decree issued pursuant to Law no. 2015-992 of 17 August 2015 are listed in Articles R 121-26 to R121-29 of the consumer code.



giving consumers access to more affordable spare parts.<sup>40</sup>

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## Conclusion

Although the concept of sobriety appears in various legislative texts, there is no single sobriety principle, only elements towards a definition that suggest – as per the Greek adage *pan metron* (moderation in all things) – that sobriety consists in the quantitative and qualitative monitoring of the use and consumption of resources and materials for economic activity.

This tentative definition is obviously open to criticism. It might be argued that it is only a material definition, as the formulation only pertains to economic production – ‘having’ and ‘doing’. In the broader sense, we should also include the dimension of ‘being’ inherent in the underlying philosophical and historical roots of the objectives of the production of goods and services – this is what is at stake in the ecological transition.<sup>41</sup> In that sense, the plan to amend Article 1835 of the civil code to mention ‘the *raison d’être* that the company intends to embrace in pursuing its activity’<sup>42</sup> is a first step towards behavioural sobriety.

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<sup>40</sup> *Les Echos*, “Les garagistes vont devoir proposer des pièces détachées d’occasion” [Garages to be required to offer used spare parts], 31 May 2016, [https://www.lesechos.fr/31/05/2016/lesechos.fr/021981738789\\_les-garagistes-vont-devoir-proposer-des-pieces-detachees-d-occasion.htm](https://www.lesechos.fr/31/05/2016/lesechos.fr/021981738789_les-garagistes-vont-devoir-proposer-des-pieces-detachees-d-occasion.htm), last accessed 16 August 2017: ‘This measure aims at saving non-renewable resources, energy and raw materials by reusing no longer used parts that still work [...] The minister also claims that the used parts will be priced “attractively” compared to new parts.’

<sup>41</sup> V° VAN-LANG Agathe, *Penser et mettre en œuvre les transitions écologiques*, Mare et Martin, Droit sciences & environnement, 2018

<sup>42</sup> Projet de loi relatif à la croissance et la transformation des entreprises, n°1088, déposé le 19 juin 2018 à l’Assemblée nationale, art. 61.