



POSITION PAPER ON THE EUROPEAN COMMISSION PROPOSAL FOR A DIRECTIVE AMENDING THE DIRECTIVE 2008/98/EC ON WASTE

The **European grouping TESS GEIE** is an important organization that brings together 6 major European social enterprises active primarily in the textile waste recovery (reuse and recycling) sector¹.

TESS GEIE aims at building an ethical, democratic and socially responsible world by enabling textile waste recovery enterprises to assert themselves as key players in the economic life. With a global flow of 72,000 tons a year, and thanks to the diversity of the geographical origin of its members, TESS is a key player in developing collaboration and expertise between its members and through its professional network, including professional federations for reuse and recycling.

TESS GEIE warmly welcomes the EC's proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste (EC's proposal), also the challenging proposals of the European Parliament Resolution of 13 March 2024 on the Waste Framework Directive (EP's Resolution) and the Council compromised text of 7 June 2024 (Council's text) as significant improvement for the treatment of textile waste and **expresses its full support for any provision strengthening the role of social enterprises in the textile waste sector and in particular in collecting, preparing for reuse and increasing the alignment of social economy sector within the waste hierarchy.**

To ensure that the circular economy for textile waste is as efficient as possible in terms of impacts, avoiding as much as possible the counterproductive opportunity effects that could be induced by certain new standards, **TESS GEIE is proposing some amendments** to refine EC's proposal, taking into account the EP's Resolution and Council's text.

¹ <https://tess-geie.eu/en#whoarewe>

I. INTRODUCTION

I.1. PRINCIPLES FOR AN EFFICIENT AND TRANSPARENT CIRCULAR ECONOMY

TESS GEIE is convinced that the scheme for a really efficient and transparent circular economy for textile waste should be configured as follows:

- The producers (manufacturer, importer, distributor) who put textile on the territory of an EU Member State for the first time have to participate to a system of Extended Producer Responsibility to guarantee a correct treatment of the textile waste;
- Any textile good that is used or unsold, which is disposed of by the holder and thus collected or donated, is waste;
- The separate collection of textiles has to be improved;
- Within the EPR schemes, waste operators who collect, transport, sort (for reuse or not) and/or treat (preparing for reuse, recycling) the textile waste have to be registered and/or have to be authorized (by permit, if applicable);
- In the WFD, the principles concerning waste have to be traduced in an efficient and transparent way and give the priority to prevention and to reuse, prior to any other treatment of textile waste;
- European end-of-waste criteria should be established to put textile waste which can be reused back on the market, as a product.

The following suggestions are based on these principles.

I.2 “TEXTILE WASTE” AND END-OF-WASTE CRITERIA

I.2.1. Textile waste

In the EC’s Proposal, “*Used and waste textiles [...] that are separately collected [...] are considered waste upon collection*” (see Article 1 (7) adding an article 22d, §3 of EC’s Proposal).

TESS GEIE highlights the importance of considering that all collected or donated used textiles or donated unsold textiles should be considered as waste, without exception. There should be a firm and restrictive general rule so that any used or unsold textile collected or donated by any means (collection containers, door-to-door collection, collection by appointment, in stores or in boutiques, donated to social economy or non-profit organizations, etc) is considered as waste.

In order to bring more clarity and consistency to EC's Proposal, the terms 'textile waste' should be defined and corrected throughout the proposed revision.

TESS GEIE refers to all the modifications made in this respect in the texts hereunder.

II.2. Textile end-of-waste (reuse or recycling)

From a transversal perspective, TESS GEIE wishes to draw the attention to and question the relevance of the notion of "fit for reuse" which is included in EC's Proposal (Article 1 (7) adding an Article 22d, §5, b)).

As stated hereabove, all used textiles or donated unsold textile are waste and they should only be reused once they have been sorted or prepared for reuse or recycling and meet the end of waste criteria.

Article 6 of the Directive provides that end-of-waste criteria can be developed, and the initiative to develop such criteria for textiles has in fact been taken by the European Commission through its Joint Research Centre.

There is a need for a clearer (and more explicit) articulation between the end-of-waste criteria for textile waste to be adopted and EC's Proposal: textile waste that can be reused or recycled in certain situations has to respect the end-of-waste criteria which will be established in the near future.

For the sake of consistency, TESS GEIE therefore suggests that the announced adoption of these new end-of-waste criteria should be clearly and explicitly considered in the wording used in EC's Proposal, as proposed also by the Council: *"In particular, the Commission shall adopt an implementing act concerning end-of-waste criteria for waste textile. When adopting this implementing act, the Commission shall include criteria for reuse or recycling in certain cases"* (insert in Article 6 of the WFD)².

TESS GEIE refers to all the modifications made in this respect in the texts hereunder.

II. THE DEFINITION OF 'PRODUCER OF TEXTILE, TEXTILE-RELATED AND FOOTWEAR PRODUCTS LISTED IN ANNEX IVc', 'MAKING AVAILABLE ON THE MARKET', 'SOCIAL ENTERPRISES', 'SOCIAL ECONOMY' AND 'TEXTILE WASTE' (Article 1 (2) of the EC's Proposal)

II.1. Proposal of definition of '*producer of textile, textile-related and footwear products listed in Annex IVc*'

TESS GEIE would like to share its misunderstanding as to why, for example, a company with just one employee, which imports and sells low-quality clothing for reuse via online

² thereby correcting the notion of "fit for reuse", which is rather vague, thus leads to uncertainty and insecurity.

platforms, with annual sales and balance sheet totalling 2 million euros, should be excluded from the obligation to participate in the EPR system, given that it represents a significant volume of textiles placed on the market. According to TESS GEIE, all players must participate in the development of a circular economy for textiles, including the smallest.

TESS GEIE suggests to modify the definition as follows:

4b. *‘producer of textile, textile-related and footwear products listed in Annex IVc’ means any manufacturer, importer or distributor or other natural or legal person **excluding those that supply “end-of-waste textiles, textile-related and/or footwear”, self-employed tailors or companies which employ fewer than 10 persons and whose annual turnover and balance sheet total does not exceed 1.000.000 EUR, producing customized products, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU of the European Parliament and of the Council****, either:

(a) (...);

(b) (...);

(c) (...); or

(d) (...);

II.2. Proposal of definition of *‘making available on the market’*

In view of the considerations developed by TESS GEIE hereabove regarding the costs of treatment of imported textile waste and for the sake of consistency with the establishment of end-of-waste criteria for textiles, TESS suggests the following definition of the notion of *‘making available on the market’*:

*“4c. ‘making available on the market’ means any supply **or import** of a **new** textile, textile-related and footwear product listed in Annex IVc, for distribution or **direct selling**, for the first time on the Union market in the course of a commercial activity, excluding end-of-waste textiles, ~~whether in return for payment or free of charge;~~”*

II.3. Addition of definitions of *‘textile waste’*, *‘unsold textile’*, *‘social enterprise’* and *‘social economy entity’*

A definition of *‘textile waste’* and *‘unsold textile’* should be added a point 2d and e. of Article 3 of the Directive 2008/98/EC on waste (*“Waste Framework Directive”* or *“WFD”*) Article 1 (2) inserting new paragraphs in article 3 of the WFD, as follows:

“2d. ‘textile waste’ means any used or unsold textile collected or donated by any means (collection containers, door-to-door collection, collection by

appointment, in stores or in boutiques, donated to social economy or non-profit organizations, etc);

2e. ‘unsold textile’ means unsold consumer product as defined in Article ...[SEE Ecodesign for Sustainable Products Regulation]³;

TESS GEIE welcomes the recognition of the key role of social enterprises and social economy in the present and in the future in the textile waste sector. However, it is important to determine the legal status of such social enterprises and the compliance with it.

TESS GEIE suggests to add the following definitions of “social enterprises” and “social economy” in Article 1 (2) inserting new paragraphs in article 3 of the WFD, in order to bring more legal certainty and more consistency with existing EU definitions proposals ⁴ :

- *“4g. ‘social enterprise’ means a private law entity that provides goods and services for the market in an entrepreneurial way and in accordance with the principles and features of the social economy entity as defined in point*

³ See Council’s text.

⁴ See the COUNCIL RECOMMENDATION of 27 November 2023 on developing social economy framework conditions (C/2023/1344) : *“For the purpose of this Recommendation, the following definitions apply, while taking into account the existing legal frameworks of Member States:*

(a) ‘social economy’ means a set of private law entities providing goods and services to their members or to society, encompassing organisational forms such as cooperatives, mutual societies, associations (including charities), foundations or social enterprises, as well as other legal forms, that operate in accordance with the following key principles and features:

(i) the primacy of people as well as social or environmental purpose over profit;

(ii) the reinvestment of all or most of the profits and surpluses to further pursue their social or environmental purposes and carry out activities in the interest of their members/users (‘collective interest’) or society at large (‘general interest’); and

(iii) democratic or participatory governance.

(b) ‘social enterprise’ means a private law entity that provides goods and services for the market in an entrepreneurial way and in accordance with the principles and features of the social economy, having social or environmental objectives as the reason for its commercial activity. Social enterprises can be set up in a variety of legal forms;”

https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ%3AC_202301344 and

See the Social Economy Charter of Social Economy Europe :

“The legal form a social economy enterprise or organisation may take varies from one Member State to another. However the social economy is distinguished from capital-based companies by shared principles and common characteristics, in particular:

Primacy of people and of the social objective over capital

- *Democratic control by the membership*
- *Voluntary and open membership*
- *The combination of the interest of members/user and/ society (general interest)*
- *The defense and application of the principles of solidarity and responsibility*
- *Autonomous management and independence from public authorities*
- *Reinvestment of the essential surplus to carry out sustainable development objectives, services of interest to members or of general interest”*

<https://www.socialeconomy.eu.org/wp-content/uploads/2020/04/2019-updated-Social-Economy-Charter.pdf>

4h, having social and/or environmental objectives as the fundament for its commercial activity; a social enterprise can be set up in a variety of legal forms.⁵”

- *4h. ‘social economy entity’ means a private law entity, independent from public authorities, providing goods and services to its members and/or to the society, encompassing social and/or environmental cooperative, mutual benefit company, social and/or environmental association (including charity), foundation or social enterprise as well as other legal form that operate in accordance with the following key principles and features:*
 - i. Primacy of people and of the social and/or environmental objectives over capital;*
 - ii. Democratic control by the membership (democratic or participatory governance);*
 - iii. Voluntary and open membership;*
 - iv. The combination of the interest of members/users and/or of the society (general interest);*
 - v. The defense and application of the principles of solidarity and responsibility;*
 - vi. Autonomous management and independence from public authorities;*
 - vii. Reinvestment of the essential surplus to carry out sustainable development objectives, services of interest to members and/or of general interest.*

Point ii and iii does not apply to foundations as they have no members;

II.4. Exclusion of ‘other non-waste operators’ from the EPR scheme

TESS GEIE agrees with all the measures involving and strengthening the role of social enterprises in EC’s Proposal and underlines the need to promote full coordination between Producer Responsibility Organisations and social enterprises.

As the social enterprises active in the textile waste sector are waste operators, TESS GEIE does not understand the possibility to “*other non-waste operators*” to play a role in the EPR scheme.

TESS GEIE suggests deleting “*and other non-waste operators*” in Article 1 (4) inserting Article 22a to 22d in the WFD, more precisely in article 22a, paragraph 4, (a) (4) and in article 22c, paragraph 5, (c) – see proposal of modifications hereunder.

⁵ See also EP’s Resolution, Amendment 31.

III. **AMBITIOUS SEPARATE TARGETS FOR REUSE AND FOR RECYCLING (Point 6 in article 1 of the EC' Proposal - insert in Article 11 of the WFD)**

TESS GEIE encourages the setting of separate targets for reuse and for recycling, that are both **clear and ambitious** (high) and **in line with the waste hierarchy principle**⁶, following which sorting and or preparation for reuse should prevail over recycling.

TESS GEIE recommends introducing an unequivocal commitment to set clear and ambitious targets in the current and further revisions, when the necessary data is available. Setting such EU targets in the WFD seems essential to maximize its efficiency and positive impacts:

- Establishing clear quantified targets for reuse is crucial for the effective functioning of extended producer responsibility (EPR) schemes, providing the necessary regulatory incentives to stimulate collaboration among the various stakeholders.

Quantified targets are already in place in some Member states (MSs) for different waste streams, including textiles:

- In France, an annual preparation for reuse and reuse target is set in absolute terms (120 000 ton in 2024), while the overall recycling target is set as a percentage (70% in 2024, 80% in 2027)⁷. The figure for reuse might seem high at first sight, but when expressed as a percentage, and put into perspective, for example in relation to the average annual consumption of French people (700 000 tons/year), this target appears to be very low and thus unambitious and unsecure.
- In the Netherlands, in 2025, a total of 50% of the textiles placed on the market must be prepared for re-use *or recycled*, and for 2030 this is 75%⁸. This combined target offers the producers the possibility to opt either for more recycling (in case of lower-quality textile waste) or for more preparation for re-use (in case of higher-quality textile waste), at their own discretion⁹. This producer-centered approach raises concerns because it

⁶ As mentioned in EC's Proposal, "*this proposal aims to improve textile waste management in line with the waste hierarchy enshrined in the WFD, prioritising waste prevention, preparing for reuse and recycling (...) and implement the polluter pays principle*".

⁷ Arrêté du 23 novembre 2022 portant cahiers des charges des éco-organismes et des systèmes individuels de la filière à responsabilité élargie du producteur des textiles, chaussures et linge de maison (TLC), available at :

https://refashion.fr/pro/sites/default/files/cadre_legal/Cahier%20Des%20Charges_Refashion_2023.pdf

⁸ Article 3 of the Decree of 14 April 2023 containing rules for extended producer responsibility for textile products (EPR for Textiles Decree), available at :

<https://www.government.nl/documents/decrees/2023/04/14/decreet-rules-extended-producer-responsibility-for-textile-products>.

⁹<https://www.government.nl/documents/decrees/2023/04/14/decreet-rules-extended-producer-responsibility-for-textile-products>.

excludes considering the needs of the waste operators, part of the EPR scheme, who have to be able to treat the volumes of textile to be re-use and/or recycled.

- Establishing ambitious quantified targets for reuse is crucial for maximizing the environmental impact of the EPR schemes. It should be taken for granted that any piece of clothing should be reused at least once in its life. This is also the only way to oblige the producers to improve the possible lifecycle of a textile product.

On this base, TESS GEIE suggests a target for re-use of **50% of the volume of the textile products put on the market, at least.**

- Today, the existing goals, both at MSs-level and in today's version of EC's Proposal, do not seem very clear, neither ambitious enough.

In both cases, there is a lack of a global preparation for re-use and re-use targets which, as such, opens the door for a 100% recycling practice, in total contradiction with the waste hierarchy principles (reuse being economically less interesting for many producers).

- As highlighted in the Presidency's Steering Note¹⁰, *“Member States will have 3 years of data available from the setup of their separate collection (2025) and will have implemented their EPR scheme for a year and a half (2027)”*.

Consequently, there is no justification not to have a **clear commitment to set up targets** in the current revision that could be discussed with MS's feedback.

Based on this, TESS GEIE suggests to add the following paragraphs in paragraph 6 of article 11 of the WFD:

*“By 31 December 2024, the Commission shall consider the setting of **sorting and preparing for re-use and recycling targets for construction and demolition waste and its material-specific fractions, textile waste, commercial waste, non-hazardous industrial waste and other waste streams, as well as preparing for re-use targets for municipal waste and recycling targets for municipal bio-waste. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.***

In any case, by 31 December 2028, the reuse of textiles, textiles-related and footwear waste answering to the end-of-waste textiles, textiles-related and footwear criteria shall attain a minimum of 50% of the volume of the textiles, textiles related and footwear products listed in Annex IVc, put on the market.”

¹⁰ General Secretariat of the Council of the European Union, Presidency Steering note and revised text of the Directive Proposal, Waste Framework Directive, WK 3219/2024 INIT, 27 February 2024.

IV. EXTENDED PRODUCER RESPONSIBILITY SCHEME FOR TEXTILES (Article 1 (7) of EC's Proposal inserting an article 22a)

IV.1. Circular economy scheme

TESS GEIE reminds the introduction of the present position paper.

IV.2. Role of all relevant actors of the textile recovery and reuse chain in the governance of EPR Schemes (Article 1 (7) of EC's Proposal inserting an article 22a, paragraphs 3 and 4):

TESS GEIE recommends introducing a clear provision that involves all relevant stakeholders in the decision-making mechanisms of EPR schemes. This is paramount to ensure the adequate representation of the whole circular economy value chain operators, which will be more conducive to increase the circularity of textile waste.

The current system often fosters a monopolistic behaviour by producers who tend to prioritize recycling over reuse activities. Therefore, the governance framework of EPR schemes poses a significant impediment to increasing reuse and preparation for reuse rates.

A recent white paper from Utrecht University underscores the necessity of a more inclusive governance approach within EPR schemes to ensure the efficient management of waste and resources¹¹. This entails involving all relevant economic stakeholders contributing to the circular textile value chain in decision-making processes.

TESS GEIE suggests to amend the paragraph 3 of the new article 22a in the WFD – Article 1 (7) of the EC's Proposal, also to give more certainty about the costs to be covered by the producers also referred in paragraph 4 of article 22a of the EC's Proposal. See proposal in point IV.4.

IV.3. Covering the costs of imported used textiles (proposal of article 22a, paragraph 6 of Councils text):

TESS GEIE wishes to alert to the adverse effects induced by the Council's proposed amendment to article 22a, paragraph 6. In light of the practical reality of the circular economy of textiles, TESS GEIE proposes to abandon such an amendment, so as not to run counter to the objectives of the circular economy, and therefore to the incentives to promote reuse, which EPRs must regulate.

¹¹ <https://www.uu.nl/sites/default/files/White-paper-on-Pathways-for-Extended-Producer-Responsibility-on-the-road-to-a-Circular-Economy.pdf>

TESS GEIE supports the recognition and consideration of the importance of financing EPR systems in line with the needs of MSs, particularly in terms of waste management. However, it seems that a better understanding of the practice of the circular economy of textile waste is required in order not to run counter to the environmental objectives linked to the existence of EPRs.

From an economic and environmental point of view, there are adverse effects and serious consequences to be avoided:

- First of all, TESS GEIE would like to ask for explanations about following Council's statement:

“In those Member States where there is a higher share compared to the EU average of used textile, textile-related and footwear products assessed as fit for re-use made available on their market for the first time and textile, textile-related and footwear products derived from such used and waste products made available on their market for the first time, the extended producer responsibility fees collected from producers of textile, textile-related and footwear products might not be sufficient to cover the costs for the waste management of those products. Setting appropriate monitoring requirements in the extended producer responsibility schemes to determine the contribution of those products to waste generated in the future will be an important source of data to assist in the possible future decision to consider those products as falling under an extended producer responsibility scheme established pursuant to this Directive. In the meantime, to ensure financial coverage for the costs of waste management to be carried out as part of the extended producer responsibility obligations, Member States with a high share of those products should have the possibility to request producer responsibility organisations to require a contribution from commercial re-use operators that make such products available on their market for the first time. In this regard, the requested contribution from the commercial re-use operators should reflect the waste hierarchy and in particular the need to promote the re-use of textile, textile-related and footwear products. Those contributions are meant to only cover the costs of collection of used and waste textile, textile-related products and subsequent waste management and should in any case be lower than the contribution requested from producers of textile, textile-related and footwear products. In that case and in line with the obligation of Member States to define in a clear way the roles and responsibilities of relevant actors involved in the extended producer responsibility, Member States may include additional obligations for these commercial re-use operators, such as reporting or registration. Commercial re-use operators are to be understood as commercial entities and social economy entities, which make available on the market those

products, that have undergone a re-use or preparing for re-use operation (e.g. sorting, repair).”¹²

Does this specifically concern certain MSs? If so, which ones? What is the exact situation in terms of numbers? Is the proposed measure justified in the light of the observed reality? The proposal of amendment does not provide the necessary details over these “situations”.

- On the other hand, it should be noted that, like new textiles, reused textile waste (otherwise known as "second-hand") are circulating in Europe. Some of the new textiles, those from what is known as "fast fashion", are in constant competition with reused textile waste. The two streams' categories compete commercially due to their low price, but reuse provides a better quality. In this context, and considering the proposed amendment, a warning is made: if reused textile waste is subject to some EPR fees, this would seriously impact the financial company's margin or the selling price, with an impact on the competitiveness of the company. In any case, it will put a number of waste operators (many of them being social enterprises) in difficulty and will be favourable to "fast fashion". Such a challenge for waste operators is clearly in contradiction with the fundamental principles of the development of the circular economy.
- Also, Council's amendment proposal leads to the advent of a double fee contribution (producer + waste operator), which will have the effect of reducing the bill for those placing new products on the market and thereby going against, by distorting it, producer responsibility in all its dimensions. Such a producer disresponsibility would in fact work directly against the development of a circular economy for textiles, supporting producers in their linear model, while having a negative impact on those operators involved in textile recovery.

In legal terms, major contradictions with regard to both major principles and definitional problems:

- a. The proposed amendment finds no justification in terms of the polluter pays principle and the principle of proportionality.
- b. The proposed amendment is not comprehensible: it is not possible to understand the difference made between textile waste collected or donated or used textile subject to a commercial acquisition.

¹² Council of the European Union, General approach on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste, interinstitutional file n°2023/0234(COD), 7 June 2024.

It seems essential that any measure concerning participation in the ERP fees should not run counter to the circular economy, to the socio-economic balance on the European territory, or to the essential principles of European law.

IV.4. Proposal of partial modification of new article 22a added by article 1 (7) of the EC's Proposal

“(…)

3. Member States shall define in a clear, **inclusive and balanced**¹³ way the roles and responsibilities of relevant actors involved in the implementation, monitoring and verification of the extended producer responsibility scheme referred to in paragraph 1. **Member States shall ensure that all relevant actors are fully involved in the decision-making process of the extended producer responsibility scheme. Those relevant actors shall include:**

(a) producers placing products on the market of the Member State;

(b) organisations implementing extended producer responsibility obligations on their behalf;

(c) private waste operators, as social enterprises or social economy entities, and public waste operators;

(d) local public authorities;

(e) preparing for reuse by social enterprises, social economy entities, or other waste operators if needed;

(f) reuse operators, as social enterprises or social economy entities.”

4. Member States shall ensure that the producers of textile, textile-related and footwear products listed in Annex IVc cover the costs of the following:

(a) collection of ~~used and~~ textile, textile-related and footwear **waste** and subsequent waste management that entails the following:

(1) ~~the collection of those used products for re-use and the separate collection of~~ **textile, textile-related and footwear waste for sorting and preparation for re-use and or recycling by waste operators (social enterprises, social economy entities, or other waste operators if needed)** in accordance with Articles 22c and 22d,

(2) transport of collected loads referred to in point (1) for subsequent **sorting, for preparation for reuse and for recycling operations by waste operators (social enterprises, social economy entities, or other waste operators if needed)** in accordance with Article 22d,

¹³ See also EP's Resolution, Amendment 56.

(3) *sorting, preparation for re-use or recycling and other recovery operations and disposal of collected loads referred to in point (1) **by waste operators (social enterprises, social economy entities, or other waste operators if needed)**,*
(4) *collection, transport and treatment referred to in points (1) and (2) of waste generated **taken in charge** by social enterprises, **social economy entities or other waste operators**—~~and other non-waste operators~~ that are part of the collection system referred to in Article 22c, paragraphs 5 and 11; (...)*

5. *Member States shall ensure that producers of textiles, textile-related and footwear products listed in Annex IVc cover the costs referred to in paragraph 4 of this Article in **relation to the textile, textile-related and footwear waste collected** in accordance with Article 22c, points 5 and 11, where such products were made available on the market for the first time within the territory of a Member State after [P.O. insert date of entry into force of this amending Directive].*

(...)”.

V. PRODUCER RESPONSIBILITY ORGANIZATIONS (‘PROs’) FOR TEXTILES (Article 1 (7) of EC’s Proposal inserting an article 22c)

- TESS GEIE agrees that a key role is played by the social enterprises and the social economy entities in the whole textile waste value chain.

To be consistent with such a role, it seems that more guarantees should be given to actively involved social enterprises and other social economy entities in the EPR PROs, especially withing their decision-making bodies and processes, as proposed in point IV of present position paper.

- Clarifications should also be given:
 - o regarding the concrete support that will be given by PROs to social enterprises and social economy entities: more guarantees could be provided:
 - how the revenues “by the producer responsibility organization” from the reuse, and especially by social enterprises and social economy entities, are taken into account – see paragraph 3. b) of new article 22c;
 - for example, 50% (or more) of the collection, transport and sorting system of textile waste should be done by social enterprises and social economy entities on all the territory of each Member State – see paragraph 5 of new article 22c;
 - o What does exactly “free of charge” means in EC’s Proposal? It should be specified that the collection at collection point is free of charge for the consumer;
 - o There should be no role in the EPR scheme for a “re-use operator in the separate collection system” that is not a registered/permited waste operator.

- TESS GEIE would like to underline the importance of ensuring that all textile waste operators are subject to a relevant legal framework, which makes possible both developing the textiles circular economy and tackling the problem caused by all informal activities and players.

Observing MSs' existing practices, TESS GEIE suggests the following requirements – see paragraph 12 of new article 22c :

- collect and transport activities should be subject to a registration with reporting obligation, and to an authorization from the competent authorities for the installation of collection containers/bins;
 - sorting/storage and preparing operations should be subject to permit requirements.
- TESS GEIE suggests also avoiding unnecessary excessive and heavy administrative burdens (impossible to comply with) – see paragraph 18 of new article 22c.

TESS GEIE proposes the following partial modifications in new article 22c :

“(…)

3. *Member States shall require the producer responsibility organisations to ensure that the financial contributions paid to them by producers of textile, textile-related and footwear products listed in Annex IVc:*

(a) (...);

(b) *are adjusted, **with clear, balanced and transparent mechanisms particularly if it concerns social enterprises or social economy entities**, to take account of any revenues ~~by the producer responsibility organisations~~ **from re-use, or from the value of secondary raw materials from recycled textile waste;***

(c) (...).

(…)

5. *Member States shall ensure that the producer responsibility organisations establish a separate collection system, **if necessary, with the local competent authorities**, for ~~used and waste~~ textile, textile-related and footwear **waste products** ~~listed in Annex IVc~~, regardless of their nature, material composition, condition, name, brand, trademark or origin, in the territory of a Member State where they make those products available on the market for the first time. The separate collection system shall:*

(a) *offer the collection of such ~~used and~~ textile, textile-related and footwear **waste products** to the entities referred to in paragraph 6, point a, and provide for the necessary practical arrangements for collection and transport of such ~~used and waste~~ textile, textile-related and footwear **waste products**, including the provision,*

free of charge, of suitable collection and transport containers to the connected collection points (“connected collection points”);

- (b) ensure the collection, free of charge for the consumer, of such ~~used and waste~~ textile, textile-related and footwear **waste products collected** at the connected collection points, with a frequency that is proportionate to the area covered and the volume of such ~~used and waste~~ textile and footwear **waste products** usually collected through those collection points;
- (c) ensure the collection, free of charge, of **not recoverable** waste ~~generated by social enterprises and other non-waste operators from such textile, textile-related and footwear products collected~~ **managed by social enterprises, social economy entities and other waste operators**, through the ~~connected~~ collection points, **as well as promote the full coordination between social enterprises, social economy entities and producer responsibility organisations**¹⁴.

Any coordination among producer responsibility organisations remains subject to Union competition rules.

6. Member States shall ensure that the collection system referred to in paragraph 5:

- (a) consists of collection points set up by the producer responsibility organisations ~~and waste management operators on their behalf in cooperation with one or more of the following: social enterprises and social economy entities, distributors, public authorities or third parties carrying out collection on their behalf of used and waste textile, textile-related and footwear products listed in Annex IVc, and other voluntary collection points~~, **with the cooperation of the local competent authorities, social enterprises and social economy entities and other waste management operators if needed** ~~on their behalf of used and textile, textile-related and footwear waste products listed in Annex IVc, and other voluntary collection points~~;
- (b) covers the whole territory of the Member State taking into account population size and density, expected volume ~~of used and waste~~ textile, textile-related and footwear ~~products listed in Annex IVc~~ **waste**, accessibility and vicinity to end-users, not being limited to areas where the collection and subsequent management of ~~those products~~ **this waste** is profitable;
- (c) maintains a sustained increase of the separate collection rate to achieve technically feasible levels taking into account good practices.

7. (...)

8. The separate collection rate referred to in paragraph 6, point (c) shall be calculated as the percentage obtained by dividing the weight of textile, textile-related and footwear ~~products listed in Annex IVc~~ **waste** collected in accordance with paragraph 5 in a given

¹⁴ See also EP’s Resolution, Amendment 78.

calendar year in a Member State by the weight of such textile, textile-related and footwear **waste products** that is ~~generated and~~ collected as mixed municipal waste.

9. (...)

10. Member States shall ensure that producer responsibility organisations are not allowed to refuse the participation of social enterprises **or social economy entities registered as waste operators** ~~and other re-use operators~~ in the separate collection system established pursuant to paragraph 5.

11. (...) Member States shall ensure that social enterprises and social economy entities that are part of the connected collection points in accordance with paragraph 6, point (a) are not required to hand over collected ~~used and waste~~ textiles, textile-related and footwear ~~products listed in Annex IVc~~ waste to the producer responsibility organisation.

12. **Member States shall ensure that collection, collection points set up in accordance with paragraphs 5, 6 and 11 and transport of textile waste are subject to registration requirements or duly authorized by the competent authorities and that sorting and storage operations are duly authorized by the competent authorities under an environmental permit.¹⁵**

13. (...)

14. (...)

15. (...) of the separate collection system for ~~used and waste~~ textile, textile-related and footwear ~~products listed in Annex IVc~~ **waste**. (...)

16. (...)

17. Member States shall ensure that producer responsibility organisations publish on their websites, in addition to the information referred to in Article 8a(3), point (e):

(a) at least each year, subject to commercial and industrial confidentiality, the information on **the amount and weight of** textile, textiles related and footwear **products** placed on the market, the rate of separate collection of **textile, textile-related and footwear waste**, including such unsold textiles, **and weight of textile collected from social enterprises or social economy entities**, on the rates of **sorting and/or** preparation for re-use **or** recycling, specifying separately the rate of fibre-to fibre recycling, achieved by the producer responsibility organisation, and on the rates of other recovery, disposal and exports;¹⁶

(b) information on the selection procedure for waste management operators selected in accordance with paragraph 18.

¹⁵ See also EP's Resolution, Amendment 83.

¹⁶ See also EP's Resolution, Amendment 92.

18. Member States shall ensure that producer responsibility organisations provide for **transparent and non-discriminatory selection procedure for waste operators**, based on **clear, fair and transparent award criteria**, without placing **any disproportionate burden on social enterprises, social economy entities and small and medium-sized enterprises (SMEs)** to procure waste management services from waste management operators referred to in paragraph 6(a) and from waste management operators to carry out subsequent waste treatment, **taking into consideration the operational realities of waste operators.**¹⁷

19. (...).”

VI. MANAGEMENT OF TEXTILE WASTE (Article 1 (7) of EC’s Proposal inserting an article 22d)

VI.1. ”Fit for reuse“ / “direct reuse”

The only exception of "direct reuse" that seems justifiable from social, economic and environmental perspectives has to do with the case of the donations to non-profit humanitarian organizations, religious institutions, emergency medicine organizations, etc., which offer an urgent help to people.

However, the fact that textiles are "assessed" without sorting does not seem to be at all reasonable and does not consider the operational reality, taking into account what the beneficiaries of donations really recover. How can it be assured that only direct reused textiles and no textile waste will be present in these flows?

This simply seems impossible and unrealistic.

As both actors and defenders of the textile’s circular economy, we would like to point out that, to bring such a circular economy on a large scale, the control and traceability of textile waste are fundamental elements, which we fear will be weakened by Council’s proposed amendment of article 22d, paragraph 3.

- **Accountability, control and audit** are essential elements. TESS GEIE's regular practical experience in all the Member States where it works clearly shows that some textile waste is always collected, even if the intention to discard it is not obvious (for example, in the case of donation).

The fact that in EC’s Proposal a wide range of “used textiles” is not to be considered as waste (anymore) would allow many non-authorized/non-registered operators to collect and treat textiles waste without any accountability to, and without being controlled and audited by the MS competent authorities.

¹⁷ See also EP’s Resolution, Amendment 94.

In other terms, this could lead to a loophole already observed, where opportunistic players (pirate operators or not) would pass themselves off as "non-profit" actors to take advantage of the benefits conferred to this status. Such players being unscrupulous by nature, it is most probable that inestimable quantities of waste will escape the control of the authorities, impacting the environment very badly.

Waste regulation is and should remain the most effective instrument for controlling this type of operations and bring more legal certainty on what type of streams will be collected or really donated.

- **Traceability.** Another loophole to be pointed out by possible a de facto exemption of a whole range of textile waste from waste legislation is that it would lead to a sort of black hole in terms of traceability. Without solid traceability obligations, efforts to build a circular economy for textiles would come to nothing.

In order to avoid any environmental drift and tackle the here-above-mentioned issues and considering the common practice in several European MS and the existing cases of donations of textiles to non-profit operators linked to churches and/or to social enterprises' shops and their positive social and environmental impact activities, TESS GEIE recommends that, to be directly re-used textile waste should comply with the following strict framework: waste textiles which are donated to non-profit humanitarian organizations, religious institutions, emergency medicine organizations, etc can be directly reused, if these :

- ensure the **traceability** of the directly reused textile waste,
- are **accountable** to, **controlled** and **audited** by the MS competent authority where the donation is made,
- are systematically under a contract with a local waste operator based in the MS where the donation is made, duly authorized to collect textile waste and submitted to the respect the EU end-of-waste criteria, to **ensure that the part of the donations which cannot be directly reused can be managed according to the waste legislation.**

TESS GEIE suggests to amend partially article 22d(see hereunder).

VI.2. Textile waste shipments

- Clarification should be given concerning the articulation between the following (legislative) texts:
 - the EC's Proposal;
 - the (new) Waste Shipment Regulation (hereafter the WSR);
 - the end-of-waste (EOW) criteria for textiles to be adopted.

- EC seems to want to get away from the logic of the WSR by establishing EOW criteria, also for export of the textile waste.

However, EC's Proposal is not clear and should better clarify whether article 22d, §8, points (b), (c), (d) imposes the same traceability obligations that the one the EOW criteria for textiles to be adopted will establish.

In any case, TESS GEIE highlights the need to remain consistent by not adding more traceability obligations on the specific textiles falling under the EOW criteria.

- The requirement pointed in point (a) of §8 of article 22d of the EC's Proposal may be deleted, as the traceability requirements imposed by the EOW criteria for textiles to be adopted will be sufficient.
- TESS GEIE suggests also to limit the burden of the recording obligations that have to be foreseen by the end-of-waste criteria.
- Denmark, France and Sweden recently urged EC to put forward a draft Council Decision on a common EU proposal on subjecting textile waste to the control mechanisms of the Basel Convention¹⁸.

TESS GEIE recognizes that this proposal makes sense in terms of the objective to reduce and better control exports of textile waste outside the European Union (hereinafter "EU") and thus minimize their environmental impact on developing countries.

However, the proposal may surprise and raises questions about its legal grounds.

The WSR defines the EU's rules on shipments of waste within and outside the EU's borders and refers to the codification of the Basel Convention to distinguish the non-dangerous textile waste from the dangerous textile waste.

This proposal lacks clarity:

- will textile waste collected be considered as dangerous waste, also for the intra EU shipment between Member States?
- as a consequence, will the shipments of textile waste systematically be subject to the procedure of notification under the WSR?

¹⁸ <https://data.consilium.europa.eu/doc/document/ST-7881-2024-INIT/en/pdf#:~:text=Denmark%2C%20France%20and%20Sweden%20urge,in%20the%20spring%20of%202025.>

If so, this will result in a particularly high administrative burden and will constitute a serious hindrance to trade and more generally to the development of a circular market for the reuse and recycling of textile waste within and without the EU.

In any case, this would require amending the recently revised WSR, not the Basel Convention.

- Finally, a better control of the shipment of textile waste on a global scale is the development of specific end-of-waste criteria for textile waste. Such a work is currently being carried out in Europe by the Joint Research Center of the European Commission. Concrete solutions to guarantee exports of a certain quality of waste textiles can be developed under the existing WFD. TESS GEIE recommends the following amendment to article 22d, paragraphs 8 and 9.

VI.3. Proposal of partial modifications in new article 22d

“1. Member States shall ensure, by 1 January 2025 and subject to Article 10(2) and (3), the separate collection of textile **wastes** for re-use, preparation for re-use and recycling.

2. (...)

3. *Member States shall ensure that ~~used and waste~~ textiles, textile-related and footwear **waste** that are separately collected **or donated**, including in accordance with Article 22c(5) and 22c(11), are considered waste ~~upon collection~~.*

Waste textiles that are donated to social enterprises, social economy entities that are non-waste operators or non-profit organizations or churches can be directly reused, if these operators:

- ***ensure the traceability of the directly reused textiles,***
- ***are accountable to, controlled and audited by the MS competent authority where the donation is made,***
- ***are under a contract with a local waste operator based in the MS where the donation is made, duly authorised to collect textile waste and submitted, if possible, to the respect of the EU end-of-waste criteria.”***

~~With regard to textiles other than the products listed in Annex IVc, as well as unsold textile, textile-related and footwear products listed in Annex IVc, Member States shall ensure that the different fractions of textiles materials and textiles items are kept separate at the point of waste generation where such separation facilitates subsequent re-use, preparation for re-use or recycling, including fibre-to-fibre recycling where technological progress allows:~~

4. *Member States shall ensure that **textile** ~~used and waste~~ textiles, textile-related and footwear products that are separately collected in accordance with Article 22c(5) are*

subject to sorting operations to ensure the treatment in line with the waste hierarchy established in Article 4(1).

5. Member States shall ensure that sorting operations of ~~used and waste textile~~ **waste, textile-related and footwear products that are separately collected in accordance with Article 22c(5)** comply with the following requirements:

(...)

7. Member States shall ensure that, in order to distinguish between ~~used and waste textiles, shipments of waste textile and shipments of end-of-waste textile used textiles, textile-related and footwear products suspected of being waste~~, **inspection** may be **realized** ~~inspected~~ by the competent authorities of Member States for compliance with the minimum requirements set out in paragraphs 8 and 9 for the shipments of **waste textile used textile, textile-related and footwear products listed in Annex IVe** and monitored accordingly.

8. Member States shall ensure that shipments arranged on a professional basis of used textiles, textile-related and footwear products comply with the minimum record keeping requirements set out in paragraph 9 and are accompanied by at least the following information:

~~(a) a copy of the invoice and contract relating to the sale or transfer of ownership of the textiles, textile-related and footwear products which states that they are destined for direct re-use and that they are fit for direct re-use;~~

(a) evidence of a prior sorting operation carried out in accordance with this Article and, where available, the criteria adopted pursuant to Article 6(2), in the form of a copy of the records on every bale within the consignment and a protocol containing all record information according to paragraph 9;

(b) a declaration made by the natural or legal person in possession of **end-of-waste textile, textile-related or footwear products that arranges**, on a professional basis, ~~the transport of textiles, textile-related and footwear products~~ that none of the material within the consignment is waste as defined by Article 3(1);

(c) appropriate protection against damage during transportation, loading and unloading, in particular, through sufficient packaging and appropriate stacking of the load.

9. Member States shall ensure that shipments of **end-of-waste textile used textiles, textile-related and footwear products** comply with the ~~following~~ minimum record keeping requirements **of the end-of-waste criteria**.

~~(a) the record of the sorting or preparation for re-use operations shall be fixed securely but not permanently on the packaging;~~

~~(b) the record shall contain the following information:~~

~~(1) a description of the item or items present in the bale reflecting the most detailed sorting granularity that the textile items have undergone during the sorting or preparation for re-use operations such as type of clothes, size, colour, gender, material composition,~~
~~(2) the name and address of the company responsible for the final sorting or preparation for re-use.~~

10. Member States shall ensure that, where the competent authorities in a Member State establish that an intended shipment of **textile products** ~~used textiles, textile-related and footwear~~ consists of **textile waste**, the costs of appropriate analyses, inspections and storage of **textile waste** ~~used textiles, textile-related and footwear suspected of being waste~~ may be charged to the producers of textile, textile-related and footwear products listed in Annex IVc, to third parties acting on their behalf or to other persons arranging the shipment.”

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