



Briefing Paper

15 November 2023

Basis for an International Legally Binding Instrument

(“the instrument”)

Comments on Measure 7 (Extended Producer Responsibility (EPR) and Measure 9a (Waste Management)

1: Definition of 'EPR System'

- The text calls for Parties to establish an 'EPR system', but the absence of a clear definition raises questions about what constitutes an EPR system.
- While the text outlines laudable objectives for EPR systems, it does not specify the minimum requirements for such systems.
- The effectiveness of EPR systems in meeting the instrument's requirements is open to debate.

2: Scope of Application in Option 1

- Option 1 lacks reference to 'sectoral bases' for EPR systems, potentially leading to concerns about its broad application to all forms of plastics and plastic products.
- Without clear delineation of the scope, signing up to this option in a legally binding instrument might be challenging.
- Option 2, being less normative, avoids this issue by encouraging rather than mandating the establishment of EPR systems.

3: Modalities in Both Options

- Both options reference modalities from the document supporting 'measures' from INC-2 under 'Potential elements of guidelines for EPR systems'.
- These modalities cover financial and organisational responsibilities, cost recovery mechanisms, target setting, eco-modulated fees, stakeholder involvement, and specific use of collected fees.
- While not controversial, these modalities lack specificity.

4: Scope of EPR Beyond Plastics

- Recognising the instrument's focus on plastic pollution, extending EPR systems solely to plastic packaging without including other materials may lead to inefficiencies.
- Proposing a broader scope for EPR, beyond plastics, would address these limitations and promote more efficient waste management.

5: Just Transition and Internal Cross-referencing

- Both options suggest Parties consider how EPR systems contribute to a just transition, but the exact requirements are unclear.
- Internal cross-referencing in Measure 12 provides insights into a just transition, including the use of fees for improving infrastructure and livelihoods in the waste sector.

6: Measure 9a – Waste Management

- Linkages between Measures 7 (EPR) and 9a (Waste Management) need strengthening.
- Option 1 establishes targets in the instrument, while Option 2 leaves it open to Parties.
- Lack of discussion on defining the quality of collection service in both measures poses a potential risk of fragmented plastics collection activities.

In summary, Measures 7 and 9a collectively lack clarity on required targets and the nature of the collection service, posing potential challenges in meeting obligations and risking fragmented waste management efforts.

Defining EPR Schemes:

It is advisable to use the term 'Extended Producer Responsibility schemes' rather than 'systems' to avoid suggesting a mechanistic approach.

The definition should focus on the core concept of systematically assigning responsibility to producers for the end-of-life management of their products and packages, ensuring that costs are covered.

For example, Extended Producer Responsibility schemes are systematic and organised approaches requiring producers either to physically assume responsibility (and payment) or ensure that costs are covered for the end-of-life management of the products and packages they sell, which become waste.

Minimum criteria for such schemes include:

- Producers meeting the full costs of managing products and packages as waste.
- Linking the amount paid by producers (in cases without eco-modulation of fees) to the costs their products and packages impose on the system.
- Encouraging differentiation between products and packages based on their characteristics, allowing for tailored analyses.

This definition deliberately emphasises cost recovery concerning waste management, deeming it the relevant focus. Details about the scope of costs could be included in an Annex or modalities.

Control Measure for EPR Schemes:

1. Each Party shall establish and operate EPR schemes, covering at a minimum:
 - Packaging waste generated by households
 - Beverage packaging
 - Textiles (with further details if needed)
 - Waste electrical and electronic equipment
2. The costs recovered from producers should reflect the diverse ways products and packages may need to be managed, not restricted to recycling costs. This includes clean up costs for littered packages and products.
3. Recycling targets shall be set for each EPR scheme, possibly specified for each waste type and country groupings in an Annex.
4. Responsibilities of producers and other relevant actors should be clearly outlined in EPR-related legislation or other policies.
5. For municipalities responsible for waste collection:
 - Minimum standards for the collection service should be set to exceed targets, with producers contributing to service costs.
 - Provision should be made for a non-profit entity to manage collected wastes efficiently and effectively.
6. For municipalities not responsible for waste collection, provision should be made for an appropriate entity to organise collection and management.
7. Revenues from fees paid by producers shall be exclusively used for covering waste management service costs, with provisions for auditing.
8. Parties are encouraged to extend EPR schemes beyond plastics to support comprehensive waste management systems. This includes the case where EPR schemes are delivered as deposit return systems.
9. Parties may modulate EPR fees to incentivise environmental improvements, and alternative incentives should be considered for similar outcomes.
10. Parties, in implementing EPR, should consider the principles of a just transition, ensuring inclusivity and non-discrimination in the design and procurement of services under the national plan.

Note: Alignment with Waste Management Measures is crucial, and Financing Measures should adequately recognise the potential role of EPR.

Potential Scope of Cost Recovery

Producers (and other entities involved in plastic supply, as deemed appropriate) shall cover the following costs of the system:

The plastics-relevant share of:

- a. Costs of collection, reflecting standards and performance objectives;
- b. Costs of operating depots and transfer stations;
- c. Costs of sorting systems post-collection;
- d. Costs of recycling plastics, net of revenue from sales;
- e. Costs of public education and communication campaigns;
- f. Costs of acquiring necessary data for National Plans and monitoring;
- g. Costs of public waste collection/litter bins;
- h. Costs of clean up of discarded plastics in the environment;
- i. Costs of enforcement for reinforcing public information campaigns;
- j. Costs of managing the unrecycled portion, including treatment and disposal;
- k. All associated management costs; and
- l. Applicable taxes (VAT, etc.) related to the above.

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