

NOV 2023

SUMMARIES OF RELOOP SUBMISSIONS TO THE INC PROCESS

# Simplifying Extended Producer Responsibility for an International Legally Binding Instrument on Plastic Pollution

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## Simplifying Extended Producer Responsibility for an International Legally Binding Instrument on Plastic Pollution

The United Nations Environment Assembly adopted a Resolution on 2 March 2022, leading to the establishment of an Intergovernmental Negotiating Committee (INC) tasked with developing an international legally binding instrument (referred to in this paper as the “instrument”) to address plastic pollution, including in the marine environment.

This paper from Reloop, prepared by Dr Dominic Hogg, seeks to clarify and simplify the concept of Extended Producer Responsibility (EPR) within the context of the instrument. The INC issued a **Zero Draft** text in September 2023, which included EPR as one of the control measures. For such a crucial global initiative, EPR’s role needs to be clearly understood and practical.

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# Understanding the Complexity of EPR

The complexity surrounding EPR and its applications is a matter of concern. The Zero Draft indicates the need for specific “modalities” to be set out in an annex, aiming to promote recyclability, increase recycling rates, and enhance producer accountability in the life cycle of plastics. The lack of clarity in the Zero Draft regarding the scope of EPR’s application and the absence of cross-referencing between various measures raise questions about EPR’s contribution to these objectives. An [annex](#) to an earlier [options paper](#) provided some elements

to consider in EPR guidelines, but their necessity (not to mention their final content) remains unclear. Reloop has extensive experience in EPR across various jurisdictions, including EU Member States, the UK, non-EU European countries, Canada, the US, Australia, and New Zealand. This experience includes supporting legislative processes, drafting guidance, and policy research, as well as the design and support of deposit return systems, which different actors may or may not consider to be part of EPR.

## EPR in a Global Context

In the international context of the instrument, it is essential to acknowledge that many countries are starting from a foundation of minimal waste management, or even none at all. In such cases, the fundamental challenge is to initiate waste collection and establish a sustainable waste management system, which necessitates a sound financial basis for the service. Estimates suggest that **more than 2 billion people worldwide lack access to a meaningful waste collection system**,<sup>1</sup> making it essential to consider the applicability of EPR in this context.

Consequently, Reloop proposes a simplified perspective of EPR that can be readily comprehended and implemented on a global scale. The core essence of EPR lies in extending producers’ responsibility to covering the costs of managing the waste

resulting from their products and packaging. This includes the entire waste management process, covering collection, sorting, recycling, and management of products and packaging that are not recycled, including treatment and disposal, as well as cleaning streets and other public areas of littered items.

The principle – of producers covering full costs – is the core responsibility that has to be “extended” to producers. It is not essential for a complicated EPR system to be created. What is critical is that a means for cost recovery is established, and that the fees used to recover costs are used to implement quality waste collection and management services, designed with a clear intent to achieve high recycling targets.

<sup>1</sup> Silpa Kaza, Lisa Yao, Perinaz Bhada-Tata, and Frank Van Woerden (2018) What a Waste 2.0: A Global Snapshot of Solid Waste Management to 2050. Urban Development Series. Washington, DC: World Bank - also, Lau et al 2020 Evaluating Scenarios Toward Zero Plastic Pollution Supplementary Material tables S26 and S27

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# Guidelines on Recovering Costs from Producers

**To streamline matters, the emphasis should be on producer contributions to waste management costs, reflecting the following key principles:**

- › 1. Producers are expected to pay for the management of their products and packaging at the end of those products' lifecycle, considering it integral to their social licence to operate.
- › 2. The fees paid by producers should encompass a broad range of costs, including the collection, sorting, and recycling of recyclable materials, as well as the collection and treatment of non-recyclable waste, including litter clean-up.
- › 3. Fees paid by different product and packaging producers should align with the costs their products and packages impose on the waste management system.
- › 4. Revenue generated from these fees, after accounting for reasonable administrative costs, must be used exclusively for managing end-of-life products and packaging, education, communication campaigns, and systems for reporting and data acquisition.

It is unnecessary to include features such as fee modulation within a defined form of EPR; similar, or more effective, incentives may be developed through implementing taxes on items deemed to be unrecyclable. This has the merit of generating funds for finance ministries, which might be considered (amongst other things) useful to support the costs of waste management services which are not covered by EPR revenues (for example, biowaste collection and treatment).

The scope of application of these principles (ie, which types of waste would be covered) should be considered, taking into account the full range of responsibilities of local government, such as waste from commercial enterprises. It seems likely that a minimum scope should cover packaging, electrical and electronic goods, textiles, household goods, and other frequently littered items generated by households. In regions where commercial waste collection services may otherwise be of low quality, regulators should establish minimum service standards for collection services to prevent cost externalisation (as a result of waste from businesses being inadequately contained and/or littered/dumped).

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# Recommendations

### In conclusion, Reloop proposes the following recommendations for the instrument on plastic pollution:

- › 1. As a means to simplify what is currently characterised as EPR, we recommend that delegates and the secretariat focus on the key role that fees from producers can play in helping to fund waste management systems where they are currently poorly developed.
- › 2. Reflecting the above, what is being discussed as “Extended Producer Responsibility” might usefully be rephrased, within negotiations, as “Recovery of Waste Management Costs from Producers”. This might help demystify what can otherwise appear an unnecessarily complex concept. It may also enable the choice of mechanism of cost recovery that best suits a Party’s circumstances (which may or may not be “EPR legislation”).
- › 3. The instrument should encourage the Parties to seek a broad scope of cost coverage from producers wherever conditions allow, reducing the extent to which funds have to be acquired from other sources.

### In addition, and to complement the proposed principle of cost-recovery:

- › 4. Parties should, consistent with an Option 1 based instrument (see [www.reloopplatform.org/resources/global-commitment-to-combat-plastic-pollution](http://www.reloopplatform.org/resources/global-commitment-to-combat-plastic-pollution)), establish ambitious recycling targets and regulate for the provision of high-quality waste collection and management services. These matters can be addressed in various forms of law, the key issue being that they are legislated for.

- › 5. Whilst some advocate for “fee modulation” as a component of EPR, the same objectives may be achieved via the application of economic instruments, such as taxes, which can support the elimination of problematic, as well as non-recyclable, products and packaging. These instruments have the benefit of generating additional revenue, as well as reinforcing – through market mechanisms – intentions to eliminate some products or packages.

- › 6. Although the instrument focuses on plastics, where matters of cost recovery are concerned, it would be strange to limit a cost recovery principle to “plastics only”. We recommend that the instrument acknowledges this, not only to support the funding of improved systems for managing all wastes (recognising that not all plastics will be managed as “a single stream”), but, also, to prevent fragmentation and inefficiency in managing (plastic) waste.

This approach can facilitate the global implementation of a much-simplified form of what many are characterising as EPR, address the challenges faced by countries starting with minimal waste management infrastructure (and struggling to fund what they have), and contribute to more sustainable and efficient waste management worldwide. Subject to safeguards in respect of how such fees are utilised, it also leaves Member States able to choose the form of cost recovery mechanism that is most suitable to their political-economic context.

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