

# THE INTERNATIONAL LEGALLY BINDING INSTRUMENT ON PLASTIC POLLUTION

## THE IMPLEMENTATION OF THE POLLUTER PAYS PRINCIPLE IN THE INTERNATIONAL LEGALLY BINDING INSTRUMENT ON PLASTIC POLLUTION

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Since the 1990s, with the implementation of the polluter pays principle, extended producer responsibility (EPR) has helped to fund the public waste management services in France. This paper is based on an assessment of the French EPR, its effective practices and its shortcomings to provide recommendations for both the effective establishment of the EPR system at the national level and the full implementation of the polluter pays principle in the future international legally binding instrument on plastic pollution.

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ZEROWASTE  
FRANCE

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# CONTENTS

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## **3 RECOMMENDATIONS FOR THE EFFECTIVE IMPLEMENTATION OF THE POLLUTER PAYS PRINCIPLE IN THE INTERNATIONAL LEGALLY BINDING INSTRUMENT ON PLASTIC POLLUTION**

- 3 The EPR should contribute to the financing, but above all else, encourage a reduction in the marketing of plastic products, in terms of the application of the waste management hierarchy
- 4 A plastics tax to incorporate the ecological costs of plastic into the retail price of products
- 5 Avoiding relying on the use of market-based instruments which have proven to be ineffective
- 5 A specialist financial mechanism to ensure global justice

## **6 LESSONS LEARNED FROM THE FRENCH EXPERIENCE OF EXTENDED PRODUCER RESPONSIBILITY**

- 6 Summary
- 7 The French EPR: from its principles to its implementation
- 9 Is the French EPR achieving its set goals?

## **12 RECOMMENDATIONS FOR FULLY FUNCTIONAL NATIONAL EPR SYSTEMS**

- 12 Set goals for reducing the amount of waste placed on the market in line with the Paris Climate Agreement
- 13 Introduction of eco-modulations that are a genuine incentive
- 14 Define genuine mechanisms to support the development of alternatives
- 15 Monitor compliance with the goals by the marketers and eco-organisations
- 16 Ensure the democratic governance of EPRs to prevent conflicts of interest
- 17 Do not make EPR the be all and end all of waste reduction policy

## **18 TERMINOLOGY**

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# THE POLLUTER PAYS PRINCIPLE IN THE INTERNATIONAL LEGALLY BINDING INSTRUMENT ON PLASTIC POLLUTION

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## RECOMMENDATIONS FOR AN EFFECTIVE IMPLEMENTATION

Several mechanisms can be seen to exist for both the implementation of the polluter pays principle in the future plastics treaty and for the financing of its establishment. If the EPR is one of these, it should be implemented drawing conclusions from existing practices and their shortcomings: the EPR cannot and should not be the only mechanism, either for the application of the polluter pays principle or for financing the phasing out of plastics. Moreover, the use of an EPR system for the application of

the polluter pays principle is not necessarily essential. If it is implemented, it is a mechanism which should be applied in full and with greater effectiveness than the French experience has shown. However, it must also be accompanied by other mechanisms that have the goal of reducing production and developing alternatives to plastic, particularly single-use plastics. Such mechanisms are primarily of a financial nature, with tax being one of them.

**▶▶ THE EPR SHOULD CONTRIBUTE TO THE FINANCING, BUT ABOVE ALL ELSE, ENCOURAGE A REDUCTION IN THE MARKETING OF PLASTIC PRODUCTS, IN TERMS OF THE APPLICATION OF THE WASTE MANAGEMENT HIERARCHY**

The EPR is one of the measures included in the revised draft text. For an effective EPR which is protected against conflicts of interest, Zero Waste France therefore recommends the incorporation of the following principles:

- **Make the application of the polluter pays principle compulsory, although not the EPR.** The EPR is not the only way of implementing this principle, and the si-

gnatory states should be able to choose the most appropriate public policy in their country.

- **Specify that EPR systems should aim to contribute to the goals of the plastics treaty by complying with the waste management hierarchy, i.e. to firstly reduce the marketing of plastic products and to then support the development of alternatives (especially through reuse**

systems), before supporting the management of the end-of-life of products. This means that some of the EPR budgets should be set aside for prevention, reuse and repair.

- **Specify that EPR should finance the full costs of the management of the end-of-life of products**, including the costs of decontamination.
- **Ensure inclusive processes for the development, monitoring and control of national EPR systems**, with the full participation of both civil society and waste pickers in the decision-making.
- **Prevent any conflict of interest in the**

**governance of the EPR**, which means at the very least ensuring public authorities retain control over the development of the implementation procedures, including the eco-tax levels and bonus/penalty systems. To this end, public or partially public EPR models should be favoured.

- **Ensure independent control and sanction mechanisms** and their effective implementation by the bodies responsible for the establishment of the EPR in the event of failure to comply with the goals.

## ▶▶ **A PLASTICS TAX TO INCORPORATE THE ECOLOGICAL COSTS OF PLASTIC INTO THE RETAIL PRICE OF PRODUCTS**

To complement the EPR, tax instruments should play a key role in achieving the goals of the treaty by encouraging a reduction in the placing of plastic products on the market while also helping to finance the implementation of the treaty.

A global tax and/or national taxes on new plastic or on the incorporation of new plastic into products that are offered for sale would enable the ecological cost of plastic to be integrated into the retail price of products. This would help to ensure competition on an equal footing with more sustainable alternatives. In the packaging industry, for example, a tax of this kind would support the use of reusable packaging by increasing the price of single-use plastic packaging. In the textiles industry, it would help to encourage a reduction in the production of synthetic garments, particularly poly-

ter, by giving an economic advantage to less polluting garments.

To be effective:

- Taxes of this kind should make new and/or single-use products more expensive than their circular alternative, and prevent substitution with other single-use products made from alternative materials which are also polluting.
- Revenues from plastics taxes should primarily be used to finance solutions and systems that allow people to produce and consume in a different way at both the national and international levels.

## ▶▶ AVOIDING RELYING ON THE USE OF MARKET-BASED INSTRUMENTS WHICH HAVE PROVEN TO BE INEFFECTIVE

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Plastics credits have not reduced plastics production, which means they are not a solution to plastics pollution. At best, they aim to balance out the plastic waste generated by the buyers of the credits, allowing the pollution to continue in one country if it is offset by reductions elsewhere.

This “neutrality” of plastic gives the producers of waste – often large companies in direct contact with consumers – an eco-friendly image that they can market to the consumer, without reducing the amount of plastic waste which is generated. This allows the producers of plastic to continue with their unsus-

tainable practices while passing the buck to others. This effect, often called “greenwashing”, conceals the role that the buyers of the credits play in the production of waste.

Plastics credits could also have an indirect impact, as they create incentives which discourage the reduction of plastic waste. This has been observed in the carbon offsetting markets, and in some cases has led to an increase in greenhouse gas emissions at the locations of the offsetting projects. <sup>1</sup>

## ▶▶ A SPECIALIST FINANCIAL MECHANISM TO ENSURE GLOBAL JUSTICE

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Zero Waste France supports the proposal to create a specialist multilateral fund to provide adequate financial support for the implementation of the treaty as well as financial assistance to the countries most affected by plastic pollution. A fund of this kind is essential, as otherwise the goals set will fail

before the implementation even starts. The financial mechanism should be structured to complement and facilitate access to the existing funds. It should also ensure equitable and stable access, especially for the most affected countries.

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<sup>1</sup> In this respect, see Smoke and Mirrors. The Realities of Plastic Credits and Offsetting, Break Free From Plastic, and “What are plastic credits?”, Plastic Solutions Review, et Schneider, L., Kollmuss, A. (2015). Perverse effects of carbon markets on HFC-23 and SF6 abatement projects in Russia. Nature Climate Change, 5, 1061-1063. <https://doi.org/10.1038/nclimate2772>

# LESSONS LEARNED FROM THE FRENCH EXPERIENCE OF EXTENDED PRODUCER RESPONSIBILITY

## ►► SUMMARY

An assessment of their implementation in France appears to reveal that the ERP streams have had a limited impact. Contrary to the reduction goals set by law, worryingly, several streams have experienced problems getting up and running, developed poorly in terms of reuse, and experienced difficulties in reducing the shares of waste sent for incineration or landfill. According to the analysis, the mechanisms and funding available to producers are clearly being underused: the share of eco-modulated products is extremely limited, while the budgets provided for reuse and repair - although limited - have not been spent. According to Zero Waste France, this is mainly due to an intrinsic flaw in the EPR system: the marketers have considerable leeway to decide on the application of the mechanisms aimed at reducing the quantities of waste. If the rules are not clearly specified upstream, by law and stipulated in the specifications, this conflict of interest prevents the ERP from playing its role as a regulator of the quantities of the products placed on the market.

Regulating the EPR further would make reducing this considerable gap possible, by strengthening the rules imposed on the eco-organisations in terms of reduction, the eco-modulations and by extending the lifespan of products through eco-design, reuse and repair. Significant control over the actions taken is also key.

It is also necessary to prevent the conflicts of interest inherent in this system - the members of the boards of directors of the eco-organisations consisting of the marketers of products that are subject to the EPR - from continuing to have an effect when the rules for which they are responsible are drawn up. In this respect, the roles given to stakeholders and the scope of the decisions left to producers are key elements.

It is also essential to realise that the EPR is not able to do everything, and that other complementary public policies must be implemented to achieve the waste reduction goals.

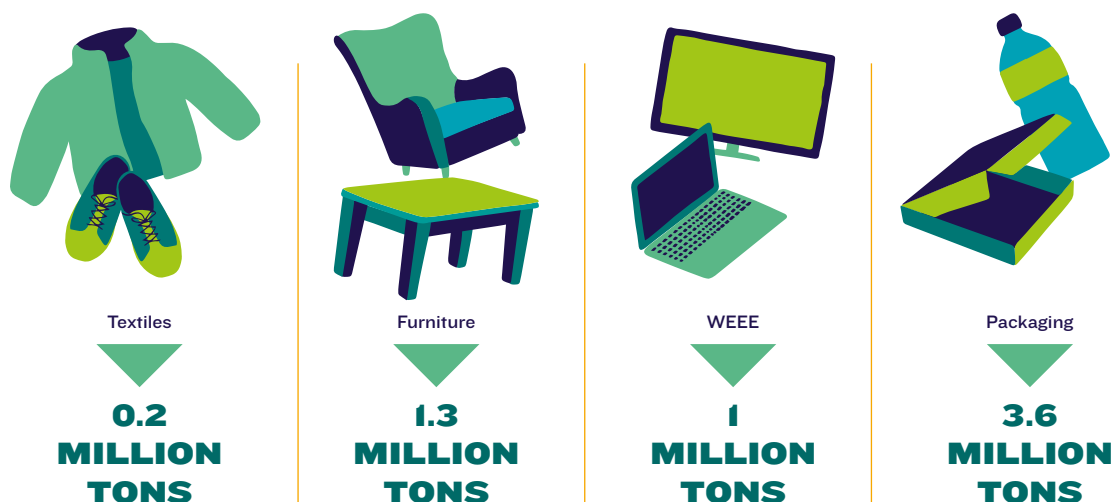
## ▶▶ THE FRENCH EPR: FROM ITS PRINCIPLES TO ITS IMPLEMENTATION

### EPR STREAMS: AN OFFSHOOT OF THE POLLUTER PAYS PRINCIPLE

When it comes to waste, EPR streams are the embodiment of the “polluter pays” principle: the marketers are responsible for the end-of-life of the products that they place on the market. Since 2020, however, the “AGEC” law means that EPR in France has also focused on the prevention of waste: eco-design, extending the lifespan of products, reuse and repair. The system makes it possible, for instance, to finance a reduction of 50

euros in the costs of repairing a washing machine, the construction of a washing centre for returnable glass fruit juice bottles, or the compulsory return of a used sofa when buying a new one: obligations that have been imposed on producers more recently to take account of the issue of the overproduction of waste and, consequently, the need for its reduction at source.

### VOLUMES OF WASTE COLLECTED IN 2021 BY EPR STREAMS ANALYSED



Source: Ademe

The French Anti-Waste and Circular Economy Law of 10 February 2020 (the “AGEC”), the stated aim of which is to transform the way in which we produce and consume, has the goal of reforming the EPR streams. Firstly, the law – which also has the task of widening the scope of the polluter pays principle – almost doubles the number of sectors covered by an EPR stream: some 24 are now either operational or under development, 11 of which are due to the AGECE. In addition, a larger number of economic stakeholders are now covered by the

obligations of EPR streams, including e-commerce platforms.

In France, the EPR system is now the focus of serious issues relating to production and consumption, and the way in which it is designed will largely determine what the circular economy will be like in the future. Its further development as well as its flaws and shortcomings will have a direct impact on the effectiveness of the waste reduction strategy.

## ECO-MODULATIONS, THE CORNERSTONE OF THE EPR SYSTEM

Under French law, producers are free to delegate the responsibility for their obligations to an eco-organisation, a body to which they are required to subscribe by paying a financial contribution in the form of eco-contributions and eco-modulations.

Eco-modulations allow the final amount of a producer's eco-contribution to vary according to the environmental impact of its products. Accordingly, the financial contribution per product can either be increased or reduced - through bonuses or penalties. In practice, however, the bonuses are larger and apply to more products, unlike the penalties. In other

words, while producers are often rewarded for incorporating environmental criteria into the design of their products, they are rarely penalised for placing products on the market which are particularly harmful to the environment (those that lack a recycling stream, for example). This calls into question the ability of eco-modulations to influence products that are placed on the market.

## THE EPR, FROM UPSTREAM TO DOWNSTREAM

While marketers have contributed to the management of the end of life of their products when those products become waste for a long time, the cursor has gradually shifted so that their responsibility more broadly covers the entire lifecycle of the products. This has resulted in the obligation to include quantified goals for reuse and repair in the specifications of each stream as well as measures which aim to encourage the environment to be considered from the initial design of products (aka eco-design). Funding for reuse and repair has also been established in certain streams to focus the funding of eco-organisations more effectively. In other words, the goal is to extend the lifespan of products and encourage their circularity with the aim of delaying their transformation into waste. These improvements have not succeeded in bringing about a paradigm shift, though. Indeed, the end of life of products continues to play a key role in the discussions sur-

rounding the operation and role of EPR streams, and accounts for the greatest share of the resources of the eco-organisations.

With the goal of encouraging better production, the AGEC also established a bonus-penalty system, allowing the financial contribution that the producer pays to their eco-organisation to be modulated over the course of a year according to environmental criteria that are stipulated within each stream. The impact of these measures remains to be seen, however, and brings the ability of the system to stem the proliferation of waste into question. Indeed, while it is undeniable that there is a lack of data to assess the impact of new measures, one thing is certain: the production of waste is continuing to increase.



## ▶▶ IS THE FRENCH EPR ACHIEVING ITS SET GOALS?

The EPR streams have the goal of contributing to the conservation of the environment: accordingly, this invariably entails reducing our production of waste. To analyse the impact of the EPR on the prevention and reduction goals and therefore its contribution to them, three key indicators can be examined as a priority: the quantities placed on the market, the shares of reuse and/or recovery, and the share of waste eliminated in terms of the general goals set by law. As a first step, the reduction of waste, which in-

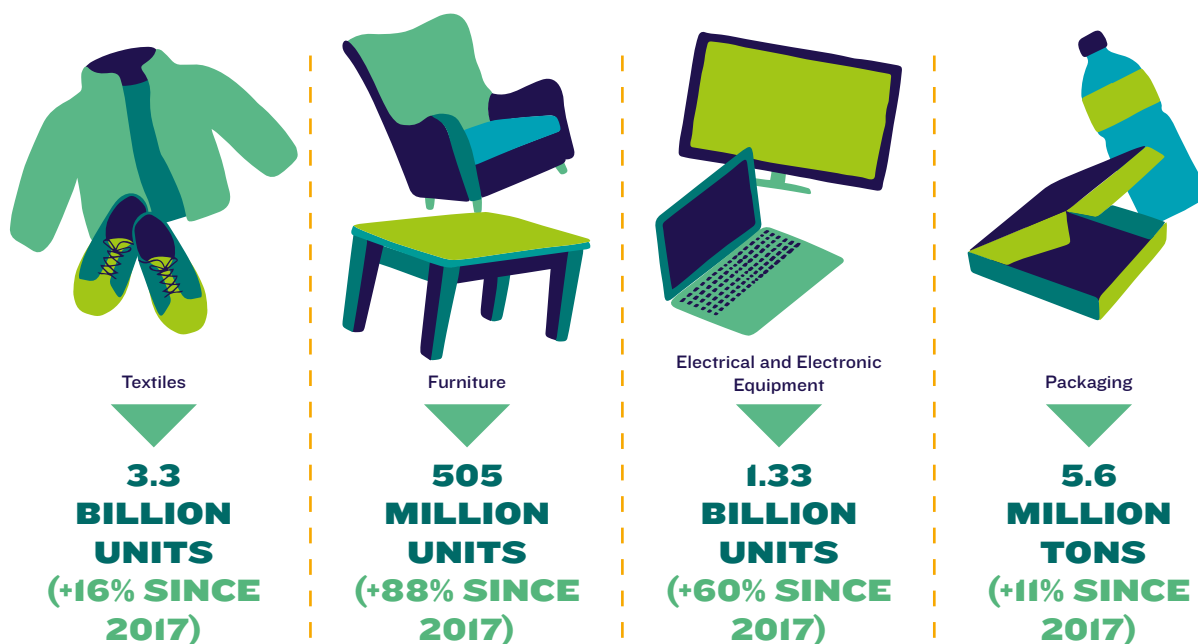
volves the development of reuse and repair. Secondly, the superior management of waste, focusing on its recycling and disposal. The analysis reveals that the ERP streams have had a limited impact. Contrary to the reduction goals set by law, worryingly, several streams have experienced problems getting up and running, developed poorly in terms of reuse, and experienced difficulties in reducing the shares of waste sent for incineration or landfill.

### QUANTITIES OF PRODUCTS PLACED ON THE MARKET STRUGGLE TO FALL

Contrary to the reduction goals set by law, worryingly, several streams have experienced problems getting up and running. In the view of Zero Waste France, there is an urgent requirement to match

the funding with the goals. The evidence is very clear: the tools put in place by the EPR to achieve the waste prevention goals are clearly inadequate, and their effectiveness can be questioned.

### QUANTITIES PLACED ON THE MARKET IN 2022



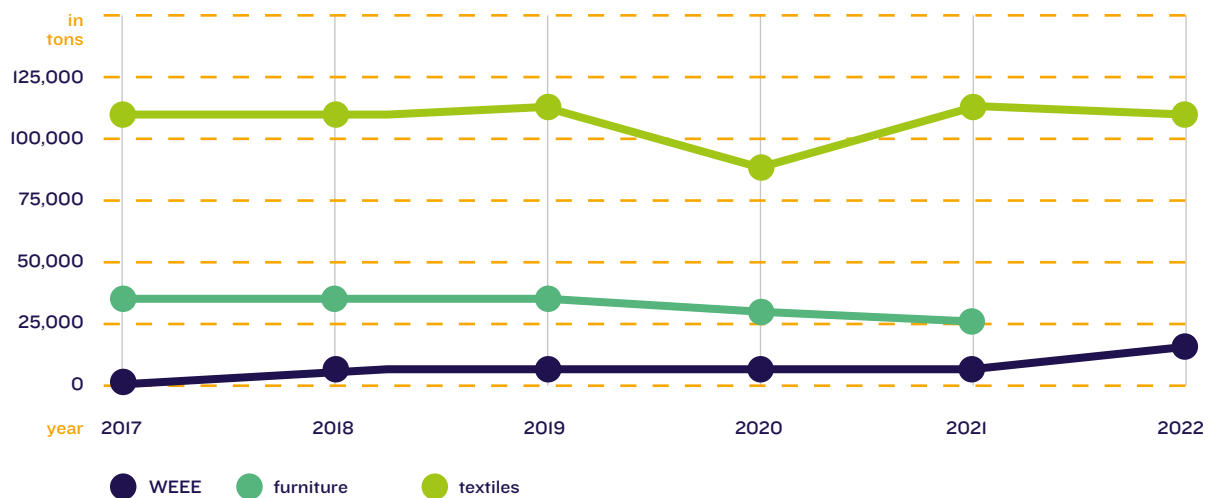
Source: Ademe

## UNSATISFACTORY DEVELOPMENT OF REUSE

While the hierarchy of waste treatment as stipulated by law requires reuse to take priority over recycling, the reality is somewhat different: the streams have not provided the funding for the development of reuse. Is this because the eco-organisations have not been sufficiently obliged to do so according to the law and the specifications? In a word, yes. Ambitious trajectories for reuse, which should be stipulated by law to offer a vision of what the economy of the future should be like, are lacking. The funding for developing alternatives has been reduced to the bare minimum, specifically the reuse funds financed by 5% of the contribu-

tions from the marketers for the streams to which an obligation applies. And for the others? The absence of a reuse fund in the EPR construction stream, for example, is unjustifiable. Above all else, though, the establishment of reuse funds by eco-organisations that represent the marketers of products which become waste is a contradiction. Isn't there a conflict of interest in deciding to give the funding for developing alternatives to products to the people who put those products on the markets? In this context, it is hard to be surprised by the slow development of reuse.

## QUANTITIES REUSED



Source: Ademe

## THE SHARE OF WASTE INCINERATED OR SENT TO LANDFILL IS STRUGGLING TO FALL

The law clearly states that landfill is to be banned as a method of waste management. Accordingly, all streams have made progress in diverting their waste from landfill, but this has largely been to the benefit of incineration. The fact that

incinerated waste is burnt to produce energy does not change the fact that much of this waste should not be going to incinerators in the first place.

## PERCENTAGE OF VOLUMES INCINERATED OR LANDFILLED



Here too, the EPR tools seem too limited: while manufacturers prefer to blame the services for the sorting and collection of waste, the failure to reach the recycling goals also shows that the penalties for non-recyclability do not appear to deter the marketers. The recycling goals will remain out of reach as long as manufacturers continue to design products using non-recyclable materials or materials which cause problems for the recycling. Therefore, what should the law say? It

should certainly say that non-recyclable products should be banned from the market. The pollution generated by these products, from the moment they are produced to the end of their life when they are incinerated or sent to landfill, is a reality that needs to be tackled as a matter of urgency. This means the introduction of bans. Plastics such as polystyrene and PVC should no longer be used.

## UNSUITABLE OR UNUSED FUNDING?

Can the failure to achieve these impact indicators be explained by inadequate funding or a failure to make use of it? To answer this question, three indicators can be studied: the share of products subject to eco-modulation, the budget set aside for reuse and repair, and finally, the share of marketers to have published a prevention and eco-design plan. The findings for five streams show that the funds set aside by EPRs are not being used to the full: Most streams have preferred to in-

troduce bonuses rather than penalties. Therefore, the share of products subject to eco-modulation is extremely limited. This means that the incentive tools for the polluter pays principle are not being put to full use. Finally, the reality of the five streams also shows that the budgets provided for in the law on reuse and repair, which are anyway insufficient, are not being spent in full. How can this be explained?

## THE ISSUE OF GOVERNANCE

Zero Waste France believes that this is mainly due to an **intrinsic flaw in the EPR system**: the marketers decide on the implementation of the mechanisms that aim to reduce the quantities of waste. If the rules are not clearly specified upstream,

by law and stipulated in the specifications, this conflict of interest prevents the ERP from playing its role as a regulator of the quantities of the products placed on the market.

# RECOMMENDATIONS FOR FULLY FUNCTIONAL NATIONAL EPR SYSTEMS

To make full use of the incentive mechanisms underlying the EPR system, certain structural elements need to be guaranteed:



## SET GOALS FOR REDUCING THE AMOUNT OF WASTE PLACED ON THE MARKET IN LINE WITH THE PARIS CLIMATE AGREEMENT

These goals, which are specific to each stream, must be set in terms of units sold rather than volume. In addition, waste prevention trajectories can also be set.

### REDUCTION GOALS FOR THE HOUSEHOLD PACKAGING STREAM IN FRANCE

In 1992, the household packaging stream was the very first EPR stream to be established in France. CITEO (formerly Eco Emballages) is the leading eco-organisation for this stream. It was joined by its subsidiary Adelphe, and then by LEKO in 2020. The specifications regarding this stream include the goals set by law, i.e. halving the marketing of single-use plastic bottles by 2030 and eliminating single-use plastic packaging by 2040. However, it is notable that to date, in the establishment of this EPR, the quantities of packaging are only considered in terms of weight; in other words, it is not possible to report on developments in this stream in terms of unit sales. This prevents us from progressing towards the goal of halving the number of plastic bottles placed on the market, for example.



## INTRODUCTION OF ECO-MODULATIONS THAT ARE A GENUINE INCENTIVE

To do this, establish the principle of a minimum level of eco-tax and eco-modulation to be complied with in all EPR streams by law. In particular, establish eco-modulations according to the nu-

mber of products put on the market, to discourage overproduction, as is proposed in the textiles stream in France.

### ECO-MODULATIONS IN THE TEXTILES, FOOTWEAR AND HOUSEHOLD LINEN STREAM IN FRANCE

Since the creation of the textile, footwear and household linen (TLC) stream in 2009, Refashion (formerly Eco TLC) has been the only approved eco-organisation for the stream. The specifications currently in effect were adopted in 2023. Although it includes collection, reuse and recycling goals, no goal aimed at reducing the quantities of materials or the number of products placed on the market has been adopted to date, despite the continuing problem of overproduction within this stream. The only measures planned to influence the sustainability of products are eco-design measures.

1.60% of “TLC” products placed on the market in this EPR stream are subject to eco-modulation, and all (100%) are modulated with a bonus. No penalty has yet been established in this stream.

A form of modulation is provided for within the specifications, however, which determines that the bonus develops according to the number of products placed on the market. Accordingly, from the first hundred thousand units per product category placed on the market, the reference amount for the calculation of the bonus (euros per unit) is divided by 10. In other words, this system aims to reduce the bonus for producers who place large quantities of products on the market.



## DEFINE GENUINE MECHANISMS TO SUPPORT THE DEVELOPMENT OF ALTERNATIVES

To this end, directly allocate 10% of EPR budgets to funds set aside for reuse and by requiring the establishment of reuse and/or repair funds in all streams; also, by requiring the publication of preven-

tion and eco-design plans by each producer in a uniform format to make them usable and comparable.

### REUSE AND REPAIR IN THE FURNITURE WASTE STREAM IN FRANCE

The furniture waste stream (déchets d'éléments d'ameublement, DEA) was established in 2013. This stream not only includes furniture, but also upholstered seating and sleeping products (mattress, cushions, duvets in particular) and, since 2022, textile decorative elements. Two eco-organisations have been approved so far to establish the EPR: Ecomaison (92% of the market) and Valdelia (8% of the market). A third eco-organisation, Valobat, approved in the construction stream, was given approval for the furniture stream starting from 2024.

The share of reuse, calculated in relation to the sorted quantities collected, is less than 5% in this stream, and has been falling since 2019. While the law provides for the establishment of a repair fund in the stream from 2023 and the budget set aside for this is specified in the stream's specifications, the establishment of a financial bonus for repair at a certified technician is not operational to date, so the budget set aside for repairing remains unknown. The current specifications also provide for the establishment of a reuse fund, but the budget set aside by eco-organizations for this fund currently remains unknown.



## MONITOR COMPLIANCE WITH THE GOALS BY THE MARKETERS AND ECO-ORGANISATIONS

To do this, the following should be adopted:

- Establish an independent regulatory, evaluation and control body, giving it the role of monitoring the compliance of the actions of the eco-organisations with the specifications in effect in their stream and evaluating the actions that contribute to the achievement of the quantified goals.
- Ensure compliance with the legislative and regulatory framework by sanctioning eco-organisations when they fail to comply with improvements to the regulations or the goals set in the specifications. For financial sanctions to be truly dissuasive, make the sanctions a percentage of the budget of the eco-organisation. To make those primarily responsible for the production of waste responsible, establish a scale of financial sanctions for marketers as a percentage of turnover above a specific marketing threshold.
- To ensure the genuine monitoring of their performance, require eco-organisations to compile an impact assessment for each action which contributes to achieving the goals set in their specifications.

### SANCTIONS: FROM FRENCH LAW TO PRACTICE

Since 2018, the law provides for the possibility of sanctions against eco-organisations which fail to comply with the specifications. These were beefed up in 2020, with financial sanctions of up to 10% of the total annual number of the waste management costs after the deduction of any revenues from the management of this waste or contributions received within the scope of the approved activity if it concerns an eco-organisation. The possibility of a daily penalty of up to €20,000 is also set by law. However, no sanctions have been imposed by the authorities to date except for a recent sanction against the eco-organisation responsible for the tobacco products stream.

If the suspension or withdrawal of approval is another possible sanction, it is not very credible, especially for streams in which only one eco-organisation is approved. In fact, this would have the effect of significantly disrupting the stream or delaying its launch. Thus, the refusal of CITEO PRO approval in December 2023 delayed the start of the EPR for catering packaging by three months. Therefore, the validation of the approval requests at the end of the year was considerably distorted. The state, however, can approve an eco-organisation for only one year rather than for the duration of a specification, or to impose a review of the applications several months before the start date of the accreditation.



## ENSURE THE DEMOCRATIC GOVERNANCE OF EPRS TO PREVENT CONFLICTS OF INTEREST

To do this, it is essential to ensure that key decisions are taken democratically and are not delegated to producers. This is particularly the case for the definition of the eco-modulation schedules and the allocation of funds set aside for reuse.

### THE GOVERNANCE OF THE FRENCH EPRS

The Inter-Stream Commission (Cifrep), the keystone of the current governance model, is made up of five groups representing the different stakeholders: producers, communities, approved environmental protection and consumer associations, waste prevention and management operators, including those in the social economy, and the state. It meets for discussions and to voice opinions on the regulatory texts governing the different streams (specifications, approvals of eco-organisations, eco-modulations in particular); its opinions are only advisory. In addition, each eco-organization is required to establish a stakeholders committee, which includes four groups of stakeholders. These committees also voice opinions and are a first level of consultation before a measure or a text is submitted for a vote in Cifrep.

Due to the proliferation of the EPR streams, the participation of stakeholders acting as representatives of the public interest is reaching its limits. Zero Waste France, Friends of the Earth, and France Nature Environnement are notably the only environmental protection associations to be members of Cifrep. In other words, it is up to three associative structures with limited resources to ensure that environmental protection is considered in the decisions that govern twenty EPR streams, with challenges as unique as they are technical, and where it is often difficult to be heard. The stakeholders in Cifrep and within the various stakeholder committees are ultimately guided by their own interests. Therefore, how can we make these bodies a place of neutral debate and ensure that environmental interests truly influence the decision-making?

Alongside these consultative bodies whose opinions are not necessarily followed, the decision on most topics falls to the boards of directors of the eco-organizations, which are composed exclusively of members who contribute to the EPR. The decision of the public authorities to set rules with a greater or lesser degree of strictness in the specifications imposed on them is therefore decisive.





## DO NOT MAKE EPR THE BE ALL AND END ALL OF WASTE REDUCTION POLICY

The EPR does not do everything. Because EPR cannot be the be-all and end-all of public waste reduction policy, Zero Waste France recommends using the legislative approach to:

- Establish trajectories for waste prevention and to reduce the quantities that are placed on the market.
- Adopt tax measures that can integrate environmental costs into the prices of products.
- Finally, decide on measures to ban non-recyclable materials and/or those harmful to health and the environment.

### THE EUROPEAN PLASTICS OWN RESOURCE

Referred to incorrectly as the “plastic tax”, the “EU plastics own resource” came into effect in 2021. It is a contribution made by each Member State to the EU budget which is based on the amount of non-recycled plastic packaging waste generated by the Member State. The contribution is 800 euros per tonne of non-recycled plastic packaging waste. In 2023, France contributed more than one billion euros. Where this is paid from the state coffers, however, the public authorities have not chosen to pass this financial contribution onto the marketers. A plastic tax, paid by economic stakeholders for each plastic product placed on the market, would make perfect sense. This is what other countries, such as Spain or Italy, have chosen to do<sup>2</sup>.

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2. Circular Taxation report, Eunomia and EEB, 2022. The Italian plastic tax has not yet been implemented.

# TERMINOLOGY

▶ **THE POLLUTER PAYS PRINCIPLE:**

a legal principle according to which the operator of an activity which causes environmental damage is to be held financially responsible (EU Directive of 21 April 2004 on environmental responsibility)<sup>3</sup>. In French domestic law, this is a principle with constitutional relevance.

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▶ **EXTENDED PRODUCER RESPONSIBILITY (EPR):**

enshrined in the law of 15 July 1975 relating to the elimination of waste and the recovery of materials - the first major legal French text relating to waste - this principle then implied that “any person who produces or has of waste is required to ensure or have ensured its elimination.” Adopted at the level of the European Union, it focuses on the measures taken by Member States to ensure that the producers of products assume financial and/or organisational responsibility for the management of the “waste” phase of the lifecycle of a product. The principle has gradually expanded and now includes obligations for producers starting from the product design stage.

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▶ **MARKETERS:**

refers to all economic stakeholders – producers who design or manufacture, importers, or distributors – who place a product onto the market for the first time. When a product is placed on the market, the producer pays an eco-contribution to the eco-organisation of which they are a member.

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▶ **ECO-ORGANISATIONS (EO):**

private, non-profit companies in which producers come together to fulfil their obligations to contribute to the prevention and management of waste. The member companies ensure governance via a board of directors. They are approved by the public authorities every six years if they fulfil a set of specifications. EOs are sometimes distinguished between according to their mode of operation: while some are purely financial (they collect eco-contributions to pay them back to the stakeholders responsible for the waste management, such as communities or treatment groupings), others play a more practical role. In this case, they are directly involved in the collection and processing of waste.

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▶ **ECO-CONTRIBUTIONS:**

the financial contributions paid by producers to the eco-organisation of

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# TERMINOLOGY

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- ▶ which they are members in return for the transfer of obligations relating to the organisation of the prevention, collection, and management of the waste. The amount of these financial contributions varies from one company to another, depending on the quantity and the attributes of the products placed on the market. It is determined by a national scale, set by the eco-organisation taking account of the nature of the product and the costs associated with its management at the end of its life. In 2021, the amount collected by all the approved eco-organisations in France amounted to 1.8 billion euros. Of this total, 830 million was paid to local authorities for their operational role in waste management.

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#### ECO-MODULATIONS:

- ▶ these have the purpose of varying the number of eco-contributions in application of environmental criteria. In specific terms, the eco-modulations consist of a bonus-penalty system, making it possible to promote or, conversely, penalize a product according to environmental criteria - if it is reusable, can be dismantled, or if it is recyclable, for example. Eco-modulations aim to encourage marketers to produce more sustainably and thereby contribute to waste prevention.

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3. See also OECD, Recommendation of the Council concerning the Application of the Polluter Pays Principle to Accidental Pollution, 1989; and UNCED, Rio Declaration on Environment and Development, 1992.

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**THIS BOOKLET CAN BE USED OVER AND OVER AGAIN.**

**DON'T THROW IT AWAY:  
GIVE IT AWAY!**

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Zero Waste France is a French environmental association that was launched in 1997 to campaign for a reduction in waste and a better management of resources.

The association is a member of Zero Waste Europe, the Global Alliance for Incinerator Alternatives (GAIA) and the Break Free From Plastic movement.

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