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How to Ensure Waste Colonialism is Not Written Into Law and That Fashion's Biggest Polluters Have to Change

Analysis and Suggested Changes for The European Commission's Proposed Waste Directive Amendment

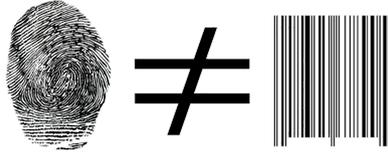
The European Commission's proposed amendments to the Waste Directive exhibit the clear ambition of reining in the impacts of fast fashion and shifting the industry toward more circular business models in an effort to align one of the most environmentally harmful industries with planetary boundaries. Yet this ambition is contradicted by a demonstrated incomplete understanding of the reality of the global secondhand clothing trade and the broader socio-economic ecosystem of textile waste management. Key details are misaligned with existing practices and internal contradiction exists between the preamble section and the legislative amendments themselves. The result is that the currently proposed legislative amendments miss the mark and do not lay a foundation for a Globally Accountable Extended Producer Responsibility Program with stringent enough criteria to urgently break the industry's vicious cycle of overproduction and overconsumption currently taking shape at the expense of people and the planet. Yet, with the great ambition of internalising costs to address fashion's overproduction embedded throughout the Commission's proposal, targeted modifications to the proposed Waste Directive amendment can ensure that the legislation sets up a truly effective harmonised EPR system across EU Member States with sufficient global reach and influence to realistically address the footprint of a massive industry.

In this document The Or Foundation, a leading not-for-profit in the campaign for a more just fashion system currently engaged in carrying out a model of Globally Accountable EPR within the largest secondhand clothing market in the world, presents an analysis of the key contradictions and issues within the Commission's proposal as it currently stands and lays out specific suggested changes along with the context prompting each suggestion. The analysis and suggestions laid out below build on our position paper titled [Stop Waste Colonialism](#), which was released in February of 2023 and has since received over 10,000 endorsement signatures, including from groups such as Vestiaire Collective, Fashion Revolution, Circle Economy, the European Environmental Bureau, African Circle Economy Network, Zero Waste Chile Alliance, Zero Waste Poland, En Mode Climat, Lagos Fashion Week, and the Mayor of Accra.

Broad Concerns With The Commission's Proposal As Is Written

1 | Programs Cannot Declare What is No Longer Waste When The End-of-Waste Criteria for Textile Waste is Not Yet Defined

Multiple times throughout the explanatory memorandum the Commission notes that there is an insufficient understanding of textile waste. For instance, the commission writes, "...the current data on textile waste generation is not sufficiently robust, which is partly due to the fragmented understanding of whether collected textiles are waste and the scope of the textiles covered by Member State implementation..." The commission also emphasises the need for developing a harmonised definition of end-of-waste criteria for textiles, which is a process that the Joint Research Centre is currently undertaking (The Or Foundation is a stakeholder contributing to that process). In the admitted absence of sufficient knowledge on textile waste, which therefore creates the absence of harmonised end-of-waste criteria, the Commission is wrong to suggest, as it does both in the recitals and in Article 22d, that textile waste is no longer waste after undergoing a sorting operation to



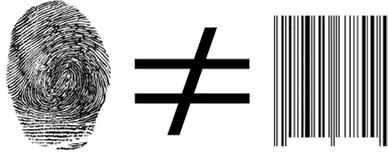
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determine fractions intended for re-use. By its own admission, the Commission does not have sufficient information to make such a determination, and we argue that the act of sorting to determine materials suitable and intended for re-use does not constitute the end-of-waste, rather such a process is but one of many criteria that must be met, the most important criteria being the actual re-use of a textile article, and not just the intention that a garment be re-used.

As the Commission makes clear, in so much as the proposal seeks to target textiles, the proposal targets apparel and home textiles that can be considered products of the fashion industry. Fashion is highly contextual. Not only are there trends, sizes and climatic factors, there are small details that make the difference between an item someone wants to wear and an item someone will discard. Consider, after all, what leads to fashion waste in the first place. Many items dropped off in collection points are wearable, but they are discarded by the original owner because they are no longer desirable. Many of these same wearable items then enter the re-use market, where once again some will be discarded because they are still no longer desirable. The question of what makes something desirable is at the core of fashion and is not the same as what makes something wearable. Fashion is not a utilitarian field. **Clothing is not a plastic bottle.** The sorting process is not a question of does this hold water and is it made of polypropylene or polyethylene terephthalate. The question is not if an item *can* be worn. The question is if an item *will* be worn. This can only be answered at the point where the decision is made as to what the re-user wants to wear in the final destination re-use markets. And unlike a plastic bottle, for which essentially no re-use market exists outside of domestic refilling, the global re-use market for textiles is enormous, responsible for clothing well over a billion people in nearly every country on Earth. From an environmental perspective, a thriving future for global re-use would be the best possible outcome of an effective EPR policy, but getting there means understanding how the market actually works.



Bales that arrive to secondhand markets pre-sorted and labelled from the EU and around the world are then sorted again by market retailers to determine which items their customers will actually want, which items need small repairs or further preparation for re-use and which items are unlikely to sell, and therefore not worth storing or transporting. Images: The Or Foundation

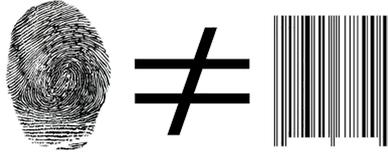


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Every year billions of items of previously discarded clothing are packaged into large bales and shipped around the world to re-use markets. Prior to that point, items are typically sorted into one of many categories and qualities. These categories are a determining factor as to how much the product that is created through the grading, sorting and exporting process will cost. This product is a bale of clothing. A bale is not a product of re-use. The bale is a bundle of material that previously has been discarded, now regarded as weight. It is possible that someone may want some of the material inside, but the individual items are unknown to the buyer of the bale and fashion is far too complex and contextual to know for sure what will be desired sight-unseen – otherwise there would be no returns for new purchases made online – and there are no global returns for bales or items inside that are not, in the end, desirable. While a bale may be bought and sold on a global market, much as a commodity of weight is traded, the fate of the items inside is not predetermined. Only when a bale is opened and the items are revealed, sorted again, prepared for re-use after being compacted tightly (meaning ironed, washed, hung, repaired or remanufactured as need be and as can be afforded), can the determination be made by the re-user as to what is no longer waste and what will continue its journey down the waste management chain for further processes of upcycling, remanufacturing, recycling, recovery or disposal. Importantly, preparation for re-use is vital. To expect materials discarded by the original users in collection bins, tightly baled up and shipped thousands of kilometres to be perfectly re-usable and desirable without further preparation is unrealistic. Not only should preparation for re-use be covered under EPR wherever it takes place, but the process should be factored into material flows from a waste hierarchy perspective, as garments that can be prepared for re-use should be prepared and re-used, and not sent to recycling or disposal, which would short circuit the waste hierarchy. Yet preparation for re-use is costly. Our research indicates that the expense of preparing items for re-use is a significant factor in material being discarded as waste as retailers and upcyclers cannot bear the cost of preparing increasingly poor quality clothing for re-use and instead must cut their losses.



Deep inside Kantamanto Market in Accra, the world's largest secondhand clothing re-use hub, teams of people iron garments arriving from around the world in preparation for re-use. The lack of infrastructure necessitates coal-fired irons, presenting both environmental and fire hazards that sufficient funding through an inclusive, Globally Accountable EPR mechanism would address. Image: The Or Foundation



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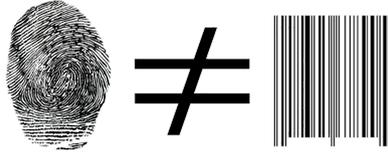
What we have described above is the process that already occurs. The Commission's proposal does little to change that process other than to convert the voluntary standards followed by the majority of the industry into the legal minimum standard. Yes, this should be the legal minimum standard; but, no, it will not solve waste.

A strong proposal and an effective policy would see the internalisation of costs through every step of the chain, whether work is performed in the EU or outside of the EU. If the work of transporting, sorting, preparing for re-use (i.e. cleaning, mending, remanufacturing), recycling, recovering or disposing of discarded textiles is taking place, then EPR should cover it. Each of those processes takes place both inside of the EU and outside of the EU. The policy must acknowledge this and be Globally Accountable to the communities managing the vast majority of the materials collected in the EU that are then exported abroad. This is critical to fulfilling the purpose of the Waste Directive which is to cover the "life cycle" of a product. The existing directive states that EPR "shall take into account the impact of products throughout their life cycle, the waste hierarchy and, where appropriate, the potential for multiple recycling." Products entering global secondhand markets will be cycled multiple times. When discarded by the second wearer, how will they be collected to be re-used again or remanufactured or recycled? If inside the borders of the EU, the collection points and infrastructure funded by EPR will pay for the costs of cycling an item multiple times, then to be effective and to follow the intention declared within the directive itself so too must EPR pay for the costs incurred outside of the EU. Fashion is a global marketplace. Products and waste move across borders everyday. An effective policy is built on this reality, and the Waste Directive already allows for the necessary nuance to be developed.

Article 6 of the existing Waste Directive permits "case-by-case" decisions as to end-of-waste status to be developed and assessed on the Member State level. Article 6 also provides a pathway for the Commission to integrate the criteria developed by Member States into harmonised criteria. We are not suggesting that every single one of the billions of garments entering the secondhand clothing trade be reported back to the Member State on an individual level. Rather we are suggesting that the specific context of fashion's waste requires the nuanced understanding afforded by the "case-by-case" framework to develop systems that financially and legislatively afford EPR programs the ability to cover the costs associated with inevitable waste management in third countries where materials collected are exported. We believe that, especially in light of the existing framework within Article 6, the changes to the proposal language we have suggested below are sufficient to provide the guidelines for Member States to develop effective programs.

2 | The Problem of Waste Cannot Be Sorted Out

In the central business district of Accra, Ghana, unwanted secondhand clothing from the global secondhand clothing trade represents the largest consolidated source of waste. Engineer Solomon Noi has long dealt with this issue that overruns his city. Eng. Noi, Director of Waste Management for the Accra Metropolitan Assembly, joined two delegation trips organised by The Or Foundation to travel Paris, Brussels and Helsinki to advocate for Globally Accountable EPR. Reflecting on his upon visit to two fast fashion stores during our first delegation trip, he stated, "it's not as if they are deliberately gathering the textile waste and bringing it to us. But apparently the quality of the product from day one, from manufacturing, is bad." Eng. Noi's statement describes the underlying issue with the current state of fashion's waste crisis. The waste cannot simply be sorted out if so much of the clothing is like waste to begin with. (Watch Eng. Noi's statement along with other members of our delegation from Accra: The Or Foundation | [How did it feel to walk through Decathlon and H&M?](#))



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Over the last three decades clothing has shifted within the consumer mentality from a durable good meant to last for years, intended to be handed down, repaired and valued for as long as possible to a consumable item meant to be worn just a few times and discarded with little thought in order to make room for the next purchase. The numbers tell this story.

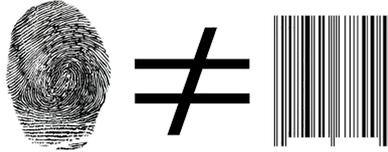
The Commission's explanatory memorandum references a report claiming that clothing volume production has doubled since the year 2000 from 100 billion units annually to nearly 200 billion units annually (Earth.org | [What Is Fast Fashion?](#)). While we note that the original root source for these figures is unclear, the directional trend is undisputed. Clothing production has skyrocketed, and, as a result, so too is textile waste. The Commission states that there is 12kg of textile waste per person per year inside of the EU. Suffice it to say that exploding production volumes and increased textile waste are directly related.

The emphasis that the Commission's proposal places on sorting out waste from the re-use fraction is poorly reasoned because of two key factors that are closely related. First, as Eng. Noi points out, if the material coming onto a sorting line resembles waste then the material leaving the sorting line will resemble waste. Second, if a market is saturated with clothing then no matter how well something is sorted, there is too much clothing and material will go to waste.

Globally the market for clothing is saturated. This has spawned the crisis at hand. Clothing is considered disposable, so only the very best pieces hold value for resale. Fashion enthusiasts and businesses are scrambling over the "creme", as it is described by the resale industry. The free market dictates that the best pieces will go to the highest bidders. In the case of clothing, this means that the truly desirable pieces will remain in the markets that can afford to pay the price of desirability. This is evidenced through the rise of resale apps and marketplaces allowing people to buy and sell items that retain value in peer-to-peer and curated platforms. The result is that the clothing that enters the collection points are increasingly no longer the "creme". Thrift stores in Europe and secondhand resale markets around the world are living the result of this, struggling to find sellable pieces in what seems like an endless sea of clothing. With obscene volumes of low quality clothing, made by a business model that thrives on disposability, this should come as no surprise.

Yet the Commission's indication within the explanatory memorandum that the issue of clothing waste shipments rests with textile fractions "exported to third disguised for re-use purposes, in particular, in relation to exported non-sorted textiles, of which a significant portion ends up in (illegal) landfills," does not represent a thorough understanding of the problem. As described above in our first section examining end-of-waste criteria, the majority of material that leaves third country re-use markets as waste, enters these markets pre-sorted in Europe or other exporting regions and contain bale labels with descriptions of material inside. The idea that the issue is non-sorted material, or a lack of labels on the bales, is simply not true. The vast majority of clothing arriving in Kantamanto Market is pre-sorted and labelled. Still 40% of the average bale (which is pre-sorted) leaves as waste — because **sorting does not improve the overall quality of clothing on the market**. We agree that there should be legal minimum quality sorting standards, but we hope to make clear that better sorting will not solve the problem, which is that there is simply too much low quality clothing.

Understanding the underlying problem leads to a deeper strategy around a responsible and just transition toward circularity through the prioritisation of re-use. As the Commission rightly points out, mandatory collection targets will mean that more material will flow through secondhand supply



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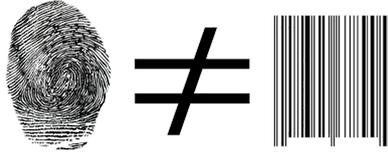
chains, which currently do not have viable outlets for all of the material, neither in the EU nor in third countries. Thus effective EPR programs will foresee this issue and ensure that resources are made available wherever materials flow in acknowledgement that there will be inevitable waste and that currently the reverse supply chain industry, oversaturated as it is, is under-resourced to address the anticipated increase in the quantity. True recycling infrastructure will not scale along the same timeline as the implementation of separate collection targets. And recycling infrastructure in the EU will not address the increase in material flowing around the world.

Nor will recycling address the root cause of overproduction, overconsumption and the diminished value of clothing overall. Recycled materials do not inherently make a garment a durable good. Recycling does little-to-nothing to change the societal view of fashion items as consumables. If anything recycling provides an excuse to increase consumption without reckoning with the true cost.

Rather, we posit that it is through grappling with re-use and the characteristics and crafts of use that enable a garment to hold value over the long-term, into its second and third generation, that societal orientation toward the way we consume can change toward sustainability. This position is shared within the Commission's important note that stakeholders (including The Or Foundation) throughout the process of developing the proposal "highlighted the importance of prioritising waste prevention and re-use and the need to set re-use and preparation for re-use targets." Of course sorting for re-use is essential, but sorting for re-use without setting ambitious re-use targets and putting the necessary resources into meeting them, will change nothing. The garbage in will be the garbage out. An effective EPR policy will recognize this and scale its ambition to transform garbage into desirable items through serious funding of re-use markets, preparation for re-use and remanufacturing throughout the global supply chain, both in the Union and beyond. The administrative apparatus needs to be led by such a policy vision, and we believe that the changes to the proposal that we have suggested below support such a vision and the necessary administrative apparatus behind it.

3 | The Suggested Internalised Costs is Too Little To Shift The Industry and Leaves Too Much Uncovered

The explanatory memorandum clearly states that the costs of waste management are not currently internalised in the price of new products brought onto the market. From the existing directive to language in the recitals stating that "producers of textiles and footwear should finance the costs of collecting, sorting for re-use, preparing for re-use and recycling, and of the recycling and other treatment of collected used and waste textiles and footwear, including unsold consumer products considered waste that were supplied on the territory of the Member States after the entry into force of this amending Directive," the intention of the policy to internalise costs of waste management are clear. Yet it is impossible to achieve the ambitions laid out by the Commission or those that we have described above in response to some of the Commission's mis-framing with the suggested budget the Commission has presented. While the proposal itself does not stipulate what EPR fees must be set, the proposal sets the tone of ambition and provides a framework for harmonisation and coordination across Member States. The Commission suggests that the cost of waste management is on average EUR 0.12/garment and in aggregate across the EU approximate EUR 975 million / year. The financial figures, which are notably not contextualised by the Commission with references or explanations, are far too low to a) cover all of the currently externalised costs, and b) shift the prevailing business model of the industry.



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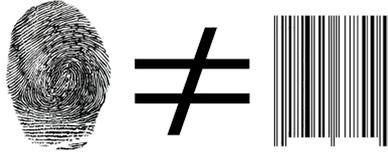
The recently adjusted French system is a useful reference for the lowest possible figure. The program aims to raise EUR 1.2 billion over the next five years from EPR fees collected for products placed onto the market in France, or roughly EUR 240 million / year (Refashion | [The beginning of a new era for the Textile sector](#)). Taken as a percentage of GDP, this means that if the French budget were scaled across the EU, a more reasonable budget target for an EU wide program would be a minimum of around EUR 1.474 billion / year, or roughly 50% more than what the Commission has targeted. This is important because the 50% difference may be the enabling factor for a Globally Accountable policy. But even so, we believe this figure is not high enough.

Our research indicates that the average retailer in Kantamanto Market is USD 1.58 in debt (EUR 1.49 a/o Oct 2023) per item when she opens a bale in the market. This equates to the cost of the bale, the cost of transportation, storage, electricity, cell phone credit to call her customers, etc. It means that many secondhand retailers are operating in cycles of subsistence debt, paying off one loan with another, unable to break out because the quality of clothes keeps falling. Meaning they are also racing one another to the bottom along with the entire industry.

A currently externalised cost in the context of Kantamanto Market that must be covered under a just system of textile waste management is the impact of headcarrying secondhand clothing bales and textile waste on the necks of young women who find no other alternative work. It is common to encounter women as young as nine headcarrying throughout the market, as headcarrying is a familiar task, but no one is intended to headcarry 55kg clothing bales. Yet, due to a lack of infrastructural investment in the market, circulating material on carts throughout the narrow, crowded and uneven aisles is impossible. Without the work of the women locally known as *kayayei* (meaning, *she who carries the burden*), Kantamanto Market would not be able to recirculate the millions of items it prepares for re-use every week, nor would the Market be able to carry away the millions of items that are discarded as waste. The Or Foundation has conducted one of the largest studies on the causes, conditions and effects of headcarrying, through which chiropractic exams and x-rays of more than 100 participants indicated that women headcarrying clothing bales suffer severe and lifelong spinal degradation after just two months on the job. A stated purpose of EPR is to pay for the costs of transporting waste, and so it follows that a strong program would direct funding to urgently address such conditions in global secondhand markets like Kantamanto.

If a flagship EPR policy aims to change the patterns of a destructive and exploitative global industry, then the costs need to align with reality. This is not about pennies. We believe the starting fee for EPR programs should begin at EUR 0.50 and go up by multiples based on the volume of clothing a company brings onto the market and the eco-design components of such clothing. The reality is that EUR 0.12 cents is nearly negligible for many large brands, as it has been in France, where, according to the program administrator Refashion, consumption of new clothing has not gone down since the French EPR program has been in existence. And EUR 0.12 does not begin to approach the costs entailed with truly managing the waste, especially when processes in third countries are factored in. Starting at EUR 0.50 per garment, we believe the target cost of running effective and harmonised EPR programs across the EU is around EUR 5 billion annually.

Nearly as important as where the fee begins is how it is calculated, garment to garment, brand to brand – what is commonly considered eco-modulation. Currently the proposal uses the weight of a garment as a central factor to determine the framework for EPR fees, Weight should have little to do with the calculation of EPR fees as a heavy garment does not inherently imply that the material is



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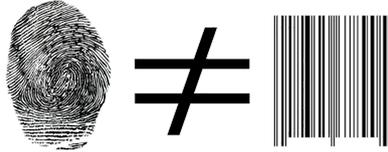
more difficult to manage. Figures in the secondhand trade and recycling are often provided in reference to weight because individual garments are baled as bulk commodities from which point they are considered to be one and the same – Grade A ladies’s blouses from the Netherlands for instance – but this is far from reality when it comes to re-use potential and costs, recycling potential ad costs or environmental impact. As we note below in the context we provide around Article 22c Paragraph 3, a heavy wool sweater may hold higher resale value and be more environmentally beneficial than a light polyester blouse. In short, though weight is used logistically by the reverse supply chain industry, weight is not the best measurement to internalise the currently external environmental and waste management costs incorporated into EPR fees. Most critically, if the issue of waste is driven by overproduction, then unit volumes, and not weight, should be the framework for varying thresholds, along with the holistically reported costs of waste management and otherwise externalised environmental costs of the materials and finishes in garments. We have made changes to suggest exactly that within the proposal language below.

4 | Production Volumes Create Waste not a Lack of Recycling Infrastructure

Broadly we are concerned that the proposal does not do enough to address the excessive production volumes at the root of fashion’s waste crisis. This concern arises from the multiple mentions of utilising EPR funds to invest in “fibre-to-fibre” recycling infrastructure. Investment in fibre-to-fibre recycling is referenced at least ten times throughout the proposal and specific reporting requirements are inserted to indicate how much fibre-to-fibre recycling is conducted. **Fashion has a waste crisis because of overproduction, not because of a lack of recycling infrastructure.**

While we acknowledge that fibre-to-fibre recycling may be one tool in a broad toolkit necessary to ensure more responsible resource use within the fashion industry, the fact is that the world has excessively abundant clothing. Recycled or not, we do not actually need more clothes. A stronger proposal would see more references to overproduction or “over production” (*one mention in recitals*), production volumes (*zero mentions*), volume of products (*one mention in our suggested changes*), and unit volumes (*one mention in our suggested changes below*). The explanatory memorandum cites that stakeholders “agreed that textile production’s design and consumption patterns have to be changed, leading to the production of textiles of higher quality that can last longer.” Yet due to the low fiscal ambition set for the program and the lack of aggressively targeting production volumes as part of an eco-modulation scheme for EPR fees, we do not believe the proposal as it is written goes far enough to address the elephant in the room.

It is vital that public disclosure of production volumes be baked in at every level of this policy as overproduction is the cause of the waste crisis. There is no time to waste. The flagship policy should use every tool at its disposal to address the real issue. Within the food waste components of the proposal, volume targets are more clearly stated. It is unclear why a similar framework to set production volume related targets could not be incorporated within the textile waste components of the proposal. We have presented some language that supports acting with such urgency by suggesting that the ecomodulation targets incorporate unit volumes and ensuring that production volumes are made public and part of the public education campaigns, and we encourage parliamentarians to develop further language related to production volumes throughout the amendment.



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Non-Exhaustive List of Specific Amendments to the Amendment

Through the rest of this document we aim to address the concerns raised above with suggestions for targeted changes to the proposed amendment document as well as two critical changes to the preamble section. We also provide the context for each proposed change to explain why we have made the suggestion in the way that we have. Our targeted changes are listed in the order they appear in the Commission's proposal. Most critical to the goal of Globally Accountable EPR is the change we proposed for Article 22d, Paragraph 8. If the proposal is passed without adopting changes to Article 22d, Paragraph 8 that run along the lines of what we have laid out, it will be tantamount to writing waste colonialism into law.

Key for Suggested Changes

Additions Subtractions

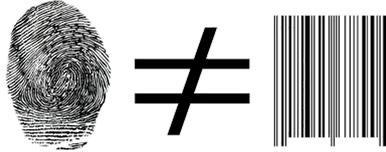
Recital Clause 1

(1) The European Green Deal and the Circular Economy Action Plan call for reinforced and accelerated Union and Member State action to ensure environmental and social sustainability of the textiles and food sectors as they represent top resource intensive sectors that cause significant negative environmental externalities. In those sectors, financing and technological gaps impede progress towards the transition to a circular economy and decarbonisation. The food and textiles sectors are the first- and the fourth- most resource-intensive sectors respectively and they do not fully adhere to the fundamental Union waste management principles set out in the waste hierarchy, which requires the prioritisation of waste prevention followed by preparation for re-use and recycling. These challenges require systemic solutions with a lifecycle approach grounded in the recognition that the volume of waste generation is directly tied to the volume of products on the market.

Context | The framework for everything that follows within the law should be constructed around the fact that overproduction creates waste. This is key to defining what the objective is in terms of systemic solutions and "lifecycle approach." The goal needs to be to reduce waste by reducing overall production volumes, not to merely recycle everything. Widely available evidence suggests that plastics recycling has failed to deliver on the promise that we as a global society can infinitely produce something via recycling without environmental impact. Knowing this, the framework for textiles (many of which are plastic) should avoid the same mistake, and instead focus on the core of waste prevention, which is overall volume reduction achieved through the prioritisation of re-use and value over volumes.

Recital Clause 31

(31) In order to ensure the treatment of textiles in line with the waste hierarchy set out in Directive 2008/98/EC, producer responsibility organisations should ensure that all separately collected textiles and footwear are subject to sorting operations that generate both items that are fit for re-use meeting the needs of the receiving second hand textile and the recycling feedstock markets in the Union and globally. In view of the greater environmental benefits associated with extending the lifetime of textiles, re-use should be the main objective of the sorting operations followed by sorting for recycling where the items are professionally assessed as not re-useable. These sorting requirements should be developed by the Commission as a priority as part of the harmonised Union end-of-waste criteria for re-useable textiles and recycled textiles, including on initial sorting that may take place at the collection point. Such harmonised criteria should bring about consistency and high quality in the collected fractions as well as in material flows for sorting, waste recovery operations and secondary raw materials across borders which in turn should facilitate the scaling up re-use and recycling value



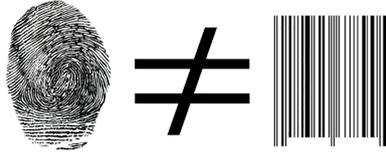
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~~chains. Used clothes professionally assessed as fit for re-use by the re-use operators or social enterprises and social economy entities at the collection point from end-users should not be considered waste. In case re-use or recycling is not technically possible, the waste hierarchy should still be applied, avoiding landfilling where possible, in particular of biodegradable textiles that are a source of methane emissions, and applying energy recovery when incineration is applied.~~

Context | The law cannot state that end-of-waste criteria have yet to be established and that further work must be done to that end and then suggest that sorting is the end-of-waste criteria. This is an internal contradiction, moreover, sorting does not eliminate waste. Nearly every single bale arriving in Kantamanto Market in Accra is sorted in the exported country before shipment. In fact, the bales are already labelled to similar standards as those mentioned within the Commission's proposal. The issue is not sorting or labelling, the issue is that individual items are not guaranteed to find an individual buyer and when they inevitably do not, they are discarded, leaving the market as waste. There are a number of reasons why items don't find buyers. First, they are low quality to begin with. In general fast fashion does not produce items intended for long lifecycles and re-use. Stylistically they may not be relevant. They may be the wrong size for the average customer in the market. They may have small stains or imperfections, that while not limiting their ability to be worn, limit their desirability and require additional financial resources to repair. This last point, the financial resources to recirculate garments, is the largest driver of waste leaving the market that we have found. Kantamanto Market has a 60% sell through rate, including all of the repair, upcycling and remanufacturing that takes place. This is quite high in comparison to many thrift stores in Europe, the UK or North America. But just like thrift stores in Europe, the UK or North America, or nearly any retail environment for that matter, retailers in Kantamanto Market will eventually cut their losses for items that they do not believe they will be able to sell. After paying for storage and transportation for the clothing for a week and not finding customers, they will discard the unsold items as waste in favour of opening a new bale that may have a selection of more attractive items inside to lure new customers to their shop. This is the exact same pattern seen throughout the global fashion industry, whether firsthand or secondhand and indicates that no sorting operation can determine if items will be re-used or not. A sorting operation can determine if items are wearable. But whether or not the items are in fact re-used can only be determined at the point of actual re-use. It is critical that the end-of-waste criteria and the legislation around it align with this reality.

Recital Clause 32

~~(32) Exports of all fractions of discarded used and waste textiles outside the EU have been steadily increasing with exports representing the greatest share of the re-use market for post-consumer textiles generated in the EU. In view of the significant increase of the collected textile waste after the introduction of separate collection by 2025 it is important to strengthen the capacities efforts to combat illegal shipments of waste to of third countries disguised as non-waste for the purpose of ensuring high environmental protection in the areas that may receive exports of previously discarded textiles from the EU. Building on Regulation .../... [P.O. insert the institutions and serial number, and complete the footnote for the Regulation on the Shipment of waste]⁸ and in view of the objective to ensure the sustainable management of post-consumer textiles and tackle dumping of waste illegal shipments of waste, it should be provided that all separately collected used textiles, textile-related and footwear products undergo a sorting operation prior to their shipment. Furthermore, it should be provided that all separately collected used textile, textile related and footwear items are regarded as waste and subject to Union waste legislation, including on the shipments of waste, only permissible for export out of the EU after they have until they have undergone a sorting operation by a trained sorting for re-use and recycling operator, and only with evidence that registered entities within the country receiving the shipment receive funding to cover costs associated with sorting. preparing for re-use, recycling and recovery operations through the Extended Producer Responsibility Programs of the exporting Member State. The sorting should be carried out in accordance with the harmonised sorting requirements that deliver high quality re-usable fraction that meet the needs of the receiving second hand textile markets in the EU and globally and by establishing criteria to distinguish~~



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between potentially re-usable ~~used~~ goods and waste. Shipments of used textiles, textile-related and footwear products should be accompanied by information demonstrating that those items are the output of a sorting or a preparing for re-use operation and that the items are suitable for re-use.

Context | This clause goes hand in hand with the modifications we suggest to Article 22d, Paragraph 8 in order to a) align the waste framework with the reality that no sorting operation can determine whether a textile item will actually be re-used. Fashion is highly contextual. An effective policy must acknowledge that even with feedback from receiving countries, as already is the case, the only people who can determine whether or not an item is actually going to be re-used are the people actually reusing it. Yet banning all shipments of textiles would not serve the purpose of promoting the waste hierarchy and the most efficient management of resources. Instead, a ban on exports would see fast fashion take the place of secondhand goods, which on a global level would be highly detrimental toward the progress the EU is attempting to make with this directive. A ban would represent a “whack-a-mole” strategy. Whereas internalising the costs of global waste management of textiles would change the rules of the game entirely, allowing for fees to strongly incentivize different models of business outside of the ‘race-to-the-bottom’ overproduction model. And supporting global secondhand markets to perform the exact same services as those covered under EPR programs inside the EU will see a more dignified secondhand trade globally that can ensure climate aligned resource management for textiles on the scale of impact that is necessary to address the crisis at hand.

Article 22a | Paragraph 4, Point A

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 all fractions of discarded ~~used and waste~~ textile, textile-related and footwear products listed in Annex IVc, and the subsequent waste management that entails the following:

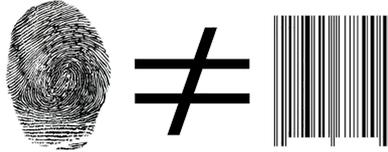
~~(1) the collection of those used products for re-use and the separate collection of waste products for preparation for re-use and recycling in accordance with Articles 22c and 22d,~~

~~(2) transport of collected loads referred to in point (1) for subsequent sorting for re-use, for preparation for re-use and for recycling operations in accordance with Article 22d,~~

~~(3) sorting, preparation for re-use, recycling and other recovery operations and disposal of collected loads referred to in point (1) in the final geographic location where such activities are determined to take place,~~

~~(4) collection, transport and treatment referred to in points (1) and (2) of waste generated by social enterprises and other non-waste operators that are part of the collection system referred to in Article 22c, paragraphs 5 and 11;~~

Context | Material cannot be collected for re-use and recycling separately because it is all regarded as waste and the document indicates in preamble statement 24 that consumers are “not trained to distinguish between re-usable and recyclable items.” If all collected material is to be considered waste per Article 22d Paragraph 3 then defining collected textiles as used and waste is contradictory and collecting material separately is impractical if not impossible. All materials entering the program are considered waste until proven that they have met the end-of-waste criteria, namely that “a market or demand exists for such a substance or object,” as described in WFD Article 6 Paragraph 1, point (b).



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Establishing that a market demand exists for an item to be re-used can only occur at the point of re-use. Classification as non-waste before the actual point of re-use is not based on a pragmatic understanding of the re-use supply chain as prior to marketing within a re-use environment, items are commodified as weight within bulk bales, which are not the product for re-use, merely logistical measures. It thus cannot be said that there is a market demand to re-use an individual item, only a market demand for the bulk amount of clothes making up a bale of which the individual item is a part, not yet inspectable by potential buyers. It is therefore important to clarify unequivocally that the activities covered under EPR may take place in an array of geographical locations where the final garments are known to circulate through global trade routes.

Article 22a | Paragraph 4, Point E

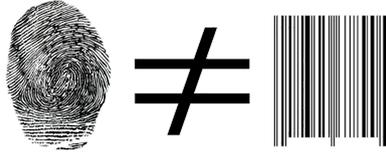
(e) support to research and development to improve the sorting and recycling processes at the appropriate stage of the waste hierarchy as defined by Article 4, in particular, in view of scaling up fibre-to-fibre recycling, without prejudice to Union state aid rules.

Context | As recycling does not in itself imply reduced production volumes and therefore less waste, it is important to explicitly stipulate that support for recycling should be aligned with recycling's place as the third level on the waste hierarchy, below prevention and preparation for re-use, as defined by Article 4.

Article 22a | Paragraph 5

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 all fractions of the used and waste textiles, textile-related and footwear products listed in Annex IVc deposited at the collection points set up 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], including any textile fractions that may be collected through private take-back schemes and later aggregated with textiles fractions collected pursuant to Article 22C, paragraph 5.

Context | Cleanup of language is necessary throughout the amendments to clarify that all textiles collected are to be considered waste until proven otherwise. Additionally, with the growth of private take back schemes, which are specifically excluded from the current WFD, an effective EPR program would cover the costs associated with material that is collected through a take back scheme and then passed on to actors within the aggregated supply chain handling material with the same infrastructure that processes material collected through EPR programs. Without such specific language, large brands could be incentivized to grow their take back schemes to avoid paying EPR fees and then dump material on waste service providers, who without the necessary support through comprehensive EPR programs would not be able to effectively manage the throughput. There is evidence of this already occurring as documented by Aftonbladet in Sweden ([Aftonbladet | Investigation into H&M's recycling: Airtags in items](#))



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Article 22a | Paragraph 6

6. The costs to be covered referred to in paragraph 4 shall not exceed the costs that are necessary to provide the services referred to in that paragraph in a cost-efficient way and shall be established in a transparent way between the actors concerned both within the Union and in other geographic areas where the processing of textile fractions covered under the program and in accordance to paragraph 4 is determined to take place.

Context | Insisting through the legislation that costs must be considered globally is the only way to ensure that Member States and PROs ultimately internalise all of the costs of waste management and not just those incurred in the EU. Explicitly stating the scope of the program is vital to ensuring that it is both effective in terms of supporting actors in the waste management, re-use and recycling supply chains, and also in terms of setting fees high enough by incorporating costs holistically to shift the business models of the brands that are rampantly overproducing and generating waste to begin with.

Article 22c | Paragraph 3

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:

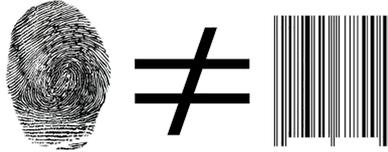
(a) are based on the unit volume weight of the products concerned and, for textile products listed in Part 1 of Annex IVc, are modulated on the basis of the ecodesign requirements adopted pursuant to the Regulation .../... of the European Parliament and of the Council [P.O. insert the serial number for the Ecodesign for Sustainable Products Regulation when adopted]** that are most relevant for the prevention of textile waste and for the treatment of textiles in line with the waste hierarchy and the corresponding measurement methodologies for those criteria adopted pursuant to that Regulation or on the basis of other Union law establishing harmonised sustainability criteria and measurement methods for textile products, and that ensure the improvement of environmental sustainability and circularity of textiles;

(b) are adjusted according to the volume of textiles, textile-related and footwear products by relevant sustainability criteria adopted pursuant to point (a) that are made available on the market for the first time within a territory of a Member State, so as to reduce the overall volume of waste production in accordance with Article 9 and in support of any targets and criteria that Members States may adopt and report to the Commission;

~~(c)~~ are adjusted to take account of any revenues by the producer responsibility organisations from re-use, preparing for re-use or from the value of secondary raw materials from recycled waste textiles;

~~(d)~~ ensure equal treatment of producers regardless of their origin or size, without placing disproportionate burden on producers, including small and medium sized enterprises, of small quantities of textile, textile-related and footwear products listed in Annex IVc.

Context | Costs need to be related to volume of units produced and the potential re-use, recovery and disposal pathways available and costs associated with those pathways for individual fibre types, finishes and garment construction techniques. Weight is not a pragmatic calculation. For instance a wool sweater dyed with natural dyes may weigh ten times more than a polyester blouse dyed with synthetic dyes. The wool sweater ultimately can serve as an environmental nutrient. Brands and designers should be encouraged to make this garment over producing a polyester blouse, which is in almost all cases an environmental toxin. Yet if fees are set by weight, as has been the case until now



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in France, it is likely that a program would charge a brand more for an environmentally positive garment than it would for a toxic garment. That is not effective. Instead the program should modulate fees based on volume thresholds of garments brought on to the market along varying sustainability criteria. If the issue is overproduction then every measure must link back to volumes, not weight.

Article 22c | Paragraph 4

4. Where necessary to avoid distortion of the internal market and ensure consistency with the ecodesign requirements adopted pursuant to Article 4 read in conjunction with Article 5 of Regulation.../... [P.O. insert the serial number for Ecodesign for Sustainable Products Regulation when adopted], the Commission may adopt implementing acts laying down the fee modulation criteria for the application of paragraph 3, points (a) and (b), of this Article. That implementing act shall not concern the precise determination of the level of the contributions and shall be adopted in accordance with the examination procedure referred to in Article 39(2) of this Directive.

Context | This builds on the previous suggested change to further incorporate the volume based eco-modulation framework into the text.

Article 22c | Paragraph 5

5. Member States shall ensure that the producer responsibility organisations establish a separate collection system for all fractions of discarded ~~used and waste~~ textile, textile-related and footwear 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 all fractions of discarded ~~such used and waste~~ textile, textile-related and footwear products to the entities referred to in paragraph 6, point a, and provide for the necessary practical arrangements for collection and transport of all fractions of discarded ~~such used and waste~~ textile, textile-related and footwear products, including the provision, free of charge, of suitable collection and transport containers to the connected collection points ("connected collection points");

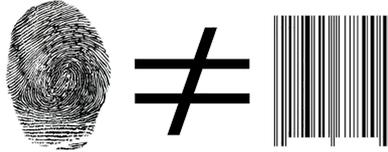
(b) ensure the collection, free of charge, of all fractions of discarded ~~such used and waste~~ textile, textile related and footwear products collected at the connected collection points, with a frequency that is proportionate to the area covered and the volume of such used and waste textile and footwear products usually collected through those collection points;

Context | This aligns language consistently with the point that used and waste cannot be determined at the time of collection and clarifies that material being collected has been discarded by the previous holder to enter what is effectively a waste management program, therefore all materials are to be considered waste under the definition provided by Article 2 of the existing directive: "waste" means any substance or object which the holder discards or intends or is required to discard."

Article 22c | Paragraph 13

13. Member States shall ensure that, in addition to the information referred to in Article 8a(2), producer responsibility organisations make available to end-users, in particular consumers, the following information regarding the sustainable consumption, re-use and end-of-life management of textile and footwear with respect to the textile, textile-related and footwear products listed in Annex IVc that the producers make available on the territory of a Member State:

(a) the volumes of textile, textile-related and footwear products first make available on the



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territory of a Member State on an annual basis in aggregate and by relevant product category and sustainability criteria as developed under paragraph 3. point (a).

(ba) the role of consumers in contributing to waste prevention, including any best practices, notably by fostering sustainable consumption patterns and promoting good care of products while in use;

(cb) re-use and repair arrangements available for textile and footwear;

(de) the role of consumers in contributing to the separate collection of used and waste textile and footwear;

(ed) the impact on the environment, human health as well as social and human rights of textile production, in particular fast-fashion practices and consumption, recycling and other recovery and disposal and inappropriate discarding of textile and footwear waste, such as littering or discarding in mixed municipal waste.

Context | While production volumes are also included as information to be disclosed on PRO websites, this is critical information that must be front and centre. Fashion's waste crisis is due to overproduction. This is the elephant in the room. It cannot be hidden in a footnote on a website that the general public does not visit. Brands paying for public education as required by EPR programs must make their production volumes part of that public education.

Article 22d | Paragraph 2

2. Member States shall ensure that the collection, loading and unloading, transportation and storage infrastructure and operations and other handling of all textile fractions subject to extended producer responsibility schemes ~~waste~~, including at subsequent sorting and treatment operations, receives protection from weather conditions and other sources of contamination to prevent damage and cross contamination of the collected textiles. Separately collected ~~used and waste~~ textiles shall be subject to a screening at the separate collection point to identify and remove non-target items or materials or substances that are a source of contamination.

Context | Alignment with the fact that all material collected is to be considered waste.

Article 22d | Paragraph 3

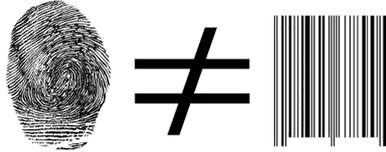
3. Member States shall ensure that all fractions of ~~used and waste~~ textiles, textile-related and footwear products that are separately collected in accordance with Article 22c(5) are considered waste upon collection...

Context | Alignment with the fact that all material collected is to be considered waste.

Article 22d | Paragraph 4

4. Member States shall ensure that all fractions of ~~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).

Context | Alignment with the fact that all material collected is to be considered waste.



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Article 22d | Paragraph 5

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

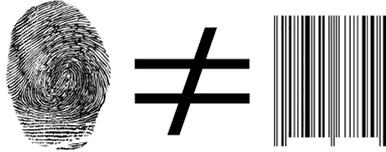
- (a) the sorting operation is to generate textiles for re-use and preparation for re use;
- (b) sorting for re-use operations sort textile items at an appropriate level of granularity, separating fractions that are fit for direct re-use from those that are to be subject to further preparation for re-use operations, target a specific re-use market applying up-to-date sorting criteria relevant to the receiving market;
- (c) items that are assessed as not suitable for re-use are sorted for recycling and, where technological progress allows, specifically for fibre-to-fibre recycling.
- (d) the output of sorting and subsequent recovery operations intended destined for re-use meet the relevant criteria established in Article 6 in order to potentially cease being considered waste upon final point of re-use or as otherwise determined by the Commission through subsequent development of end-of-waste definitions targetting textile, textile-related and footwear waste for ceasing to be considered as waste, as referred to in Article 6, though Member States.

Context | In addition to aligning with the fact that all material collected is to be considered waste, point (d) under paragraph 5 suggests that the only declaration a sorting facility can give is that garments comply with relevant and applicable criteria, but not that material is not waste. The criteria that “the substance or object is to be used for specific purposes” and “a market or demand exists for such a substance or object” cannot be determined until the point of final re-use as previously stated. Additionally the idea that a sorter can self-police the end-of-waste status of the material they are managing is not the basis for a rigorous program. In fact, such self-regulation is currently the status-quo of the industry, which has not led to positive outcomes.

Article 22d | Paragraph 7

7. Member States shall ensure that, in order to distinguish between used and waste textiles fractions intended for re-use and textile fractions not suitable for re-use, shipments of used textiles, textile-related and footwear products intended for re-use and suspected of being waste materials not suitable for re-use may be 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 used textile, textile related and footwear products intended for re-use as listed in Annex IVc and monitored accordingly.

Context | The suggested changes in paragraph 7 aim to align language to clarify that waste can only be reclassified as a reusable resource and not waste after it has been selected for re-use by the end user in the context of a re-use market. Making the differentiation before that point and declaring that materials can be re-used and therefore are not waste does not align with the reality that the average garment ending up as waste in a re-use markets can technically be re-used but is still considered waste because no one re-uses it due to the contextual factors of fashion and the costs associated with making a garment reusable within such contexts. It is for this reason that material should be regarded as waste and per paragraph 8, point (d) below should only be allowed to ship if accompanied by EPR funds covering the costs of the material's inevitable waste management.



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Article 22d | Paragraph 8

8. Member States shall ensure that shipments arranged on a professional basis of fractions of used textiles, textile-related and footwear waste intended for re-use 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 intended destined for direct re-use and that they are fit for direct re-use;

(b) 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;

(c) a declaration made by the natural or legal person in possession of used textiles, textile-related or footwear products that arranges, on a professional basis, the transport of used textiles, textile-related and footwear products that none of the material within the consignment is material intended to be discarded by the holder waste as defined by Article 3(1);

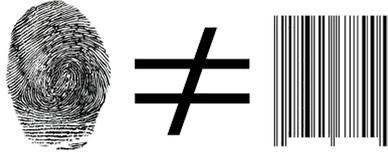
(d) evidence that registered entities within the destination country for the shipment receive financial support under an authorized extended producer responsibility program of the Member State for sorting, preparation for re-use, recycling and other recovery operations and disposal;

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

Context | The addition of point (d) provides the detail within the Waste Directive that is critical to make the policy Globally Accountable and effective. With this addition the Waste Directive does not ban shipments of textiles, but rather insists that if textile shipments are to continue they must be accompanied with the financial resources collected under EPR in order to enable the recipients of the textiles to manage them in an environmentally and socially sound manner. As written, without the addition of point (d) above or our other modifications, paragraph 8, cords the cord on EPR at export outside of the EU and limits the definition of responsibility to effectively read as 'only within our borders.'

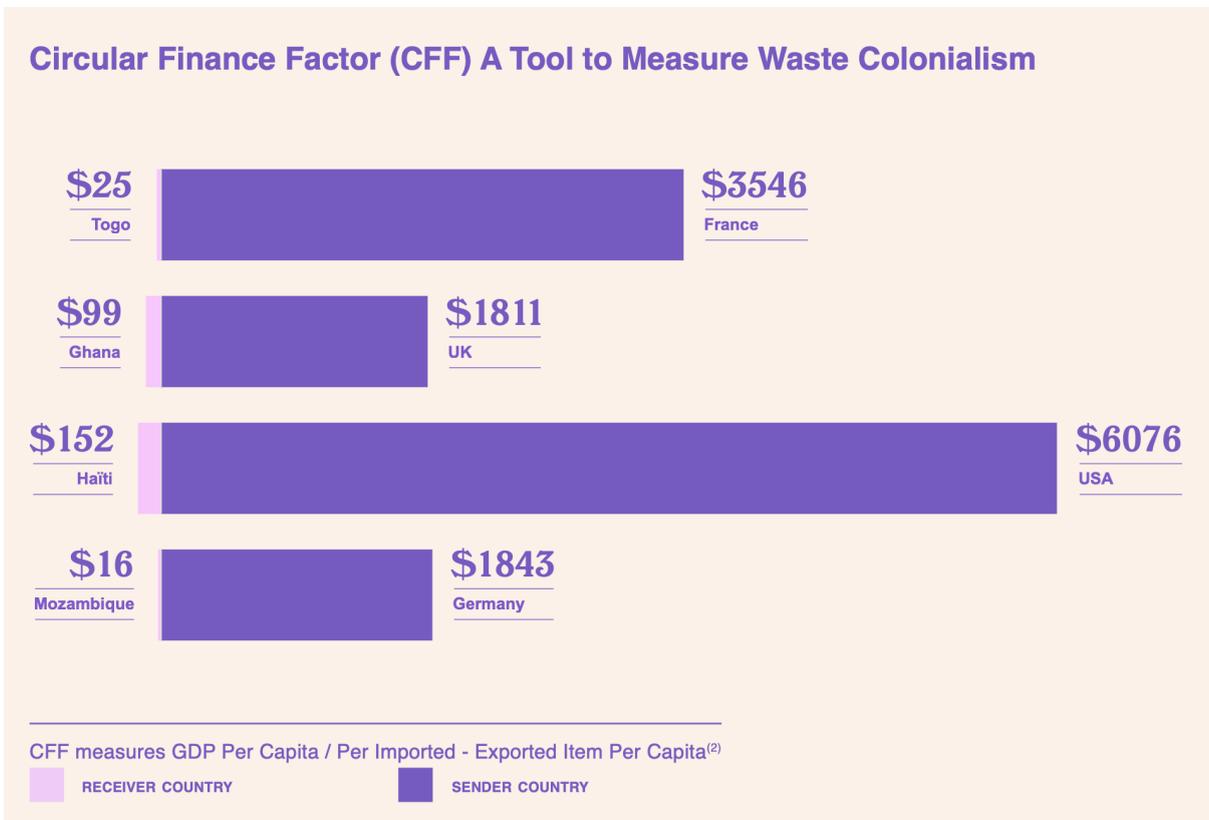
It is completely unreasonable for the document to suggest, as it does, that the EU does not currently have the resources to manage its own textile waste and therefore EPR programs must be created, but that at the same time other areas of the world receiving clothing from the EU should make do without such additional resources facilitated by EPR. Although generally the countries receiving secondhand clothing from the EU have been the largest practitioners of re-use, preparation for re-use, remanufacturing and other upcycling techniques vital to the future of the circular economy, they have been so with scarce resources and in general essentially zero support for recycling and recovery operations, which has led to the visible waste crisis in places like Accra's Korle Lagoon and beaches. This point bears further explanation.

First, receiving countries do have varying degrees of tax revenue from the importation of secondhand clothing that could be directed to managing the waste, but just as the EU has identified textile waste management to be unfair burden on municipalities within the EU, so too does textile waste management represent an unfair burden for the municipalities who start the day with even fewer



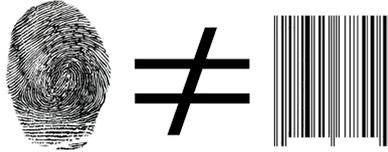
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resources than the average municipality within an EU member state. To illustrate this we have developed the Circular Finance Factor, which represents the per capita GDP per net garment imported or exported for a country. France, by way of example as the only country with an active EPR program for textiles, has a CFF of \$3546. Meanwhile, Togo, the second largest recipient of clothes from France has a CFF of \$25. Meaning that there is exponentially more money in France for every item of clothing exported than there is in Togo for every item imported. This demonstrates the absurdity of the idea that Togo or Ghana or any other net receiving country with a CFF only a fraction of that of the net sending country could possibly be expected to manage the textiles that people in the sending country have rejected. Yet, cutting off the flow of textiles does not solve the problem because cheap secondhand clothes have paved the way for cheap first hand clothes, which environmentally carry none of the benefits of re-use and all of the ills of inevitable waste.



This graphic from our Stop Waste Colonialism paper illustrates the absurdity that countries like France, the UK, the USA or Germany would export the vast majority of their collected textiles to countries with far fewer resources to actually manage the inevitable waste. Graphic: The Or Foundation, Stop Waste Colonialism

Next, the original 2008 text of the Waste Directive reads that “The introduction of extended producer responsibility in this Directive is one of the means to promote the design and production of goods that fully take into account and promote efficient use of resources throughout their life cycle, including their repair, re-use and dismantling and recycling, without affecting the free movement of goods in the internal market.” If EPR is indeed intended to cover the entire life cycle of a product then ensuring funding is available to support the necessary infrastructure for collection, preparation for re-use, recycling and recovery after an item has been discarded in its second life or third life and beyond is a core part of the mission. Therefore, regarding every item as waste until proven otherwise at the point



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of re-use is vital to ensure that the necessary resources are available to ensure minimum standards of material circulation and labour conditions for the people involved. This will happen inherently with a harmonised program across Member States in the EU, as infrastructure intended to process newly discarded clothing will also support secondarily discarded clothing. An effective EPR program must ensure that similar infrastructure is available for the full life cycle of materials that flow outside of the EU, as the majority of materials currently do.

Finally, the specific wording of point (d) is intended to solve the chicken and egg issue that would otherwise exist if waste shipments of textiles were treated like other product categories and were simply banned unless a minimum standard of infrastructure exists in receiving countries. How is infrastructure defined? How is sufficient infrastructure developed without funding and how does funding flow if material cannot flow without sufficient infrastructure? If the level of circular infrastructure for textiles is to be measured by the volume of clothing recirculated, currently re-use markets around the world hold far greater capacity to recirculate secondhand textiles than likely any market, company or municipality in the EU. Yet the capacity to manage inevitable waste when clothes do not find a buyer or are eventually discarded is generally insufficient. The framework to develop this is simple: if companies, not-profits and municipalities within the EU intend to continue moving materials to global re-use markets, then they must also ensure that EPR funding moves with the material in order to expand the capacity to deal with the inevitable waste. Such funding flows can have reasonable auditing and performance standards attached, as any responsible program should. Global Accountability does not mean that a significant portion of the funds made available through EPR programs should flow to countries outside the point of collection without any oversight. But similarly Global Accountability does not mean that a significant portion of the clothing collected through EPR programs should flow to countries outside the point of collection without any funding to cover the costs entailed with handling such clothes that have not been to this point internalised neither within the price of new garments nor the price of secondhand garments. Global Accountability is about finding a balance for everyone involved to have the resources necessary to ensure the best practices of waste prevention, re-use, preparation for-use, recycling and recovery operations can thrive.

Article 22d | Paragraph 9

9. Member States shall ensure that shipments of used textiles, textile-related and footwear fractions intended for re-use products comply with the following minimum record keeping requirements:

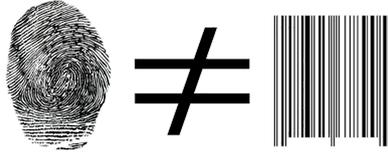
(a) the record of the sorting or preparation for re-use operations shall be fixed securely but not permanently on the packaging;

(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;

(3) the name and address of the company or individual responsible for receiving the shipment at the intended destination.



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Context | The change to paragraph 9 recognizes that intending material to enter a re-use market does not mean that the material will actually be re-used. Just because an item is wearable or re-useable does not mean someone wants to wear it or re-use it. The addition of item 3 under point (b) allows for re-use markets to have greater agency in identifying the source of bales and reporting potential issues. Within an informal market place where levels of education vary widely, it is unrealistic to expect the average retailer to be able to trace a bale back to Europe, even if a label provides contact information. But tracing a bale back to the original importer into the country may be much more feasible and allow retailers a greater tool to hold the supply chain accountable for the quality of materials entering the market.

Article 22d | Paragraph 10

10. Member States shall ensure that, where the competent authorities ~~in a Member State~~ establish that an intended shipment of fractions of used textiles, textile-related and footwear destined for re-use consists of material that does not meet the relevant criteria to establish end-of-waste in Article 6 waste, the costs of appropriate analyses, inspections and storage, recycling, recovery or disposal of such fractions of 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.

Context | Changes to Paragraph 10 are intended to align language consistently with the fact that all materials collected are regarded as waste and that items will only be recategorized as non-waste upon the point of actual re-use, and not merely the self-declaration of a sorting company or shipment of a bulk bale with many hundreds of items inside densely compacted inside, uninspectable until purchased by the end re-use retailer. Such determination cannot be limited to within a Member State, rather global reporting mechanisms must be developed because material flows globally. And wherever the material ends up, if it is not re-used, then the program must cover the costs of managing it, which when internalised through the EPR fee, may substantially shift the 'race-to-the-bottom' business model of overproduction, thus reducing waste.