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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	11624/23 INIT + ADD 1-8
Subject:	Waste Framework Directive: WPE on 4 March 2024 – Presidency steering note and revised text of the Directive Proposal

Delegations will find attached a steering note prepared by the Presidency for the WPE meeting on 4 March 2024, as well as the revised Proposal Directive text.

Working Party on the Environment (WPE)

4 March 2024

Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste

Presidency Steering Note

During the previous Working Party meetings of 12 and 26 January and 6 February 2024, the Commission provided useful clarifications and Member States shared their comments, questions and positions on the entire proposal.

Based on these inputs, the Presidency has been working on a first partial draft revised text, which was discussed during the Working Party of 19 February 2024. The Presidency would like to thank the Member States for their active participation in the Working Party meetings and for the written comments submitted.

For the Working Party meeting on 4 March, the Presidency has elaborated further the draft for revised text. Member States are invited to share their views on the proposals in the steering note and the accompanying text proposals in the Annex, and, if necessary, provide alternative wording suggestions. The Presidency intends to structure the discussions during the Working Party meeting in the order of the points in this Steering Note, which follows as much as possible the order of the articles in the proposal.

Food Waste

(1) Food waste definition

During the Working Party meeting of 19 February some Member States asked for a food waste definition, other Member States made suggestions regarding the prevention of food losses. The Presidency wants to remind Member States of the scope of the Waste Framework Directive (WFD) and the existing food waste definition.

Article 3, 4a of the WFD defines food waste as follows:

‘food waste’ means all food as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council that has become waste.

From this definition are excluded, according to WFD Article 2, 2 animal by-products (b), carcasses of animals (c), substances that are destined for use as feed materials (e), and according to Article 5, 1 by-products.¹

Furthermore, delegated decision (EU) 2019/1597 as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste² further clarifies that *the definition of 'food' laid down in Regulation (EC) No 178/2002 of the European Parliament and of the Council³ encompasses food as a whole, along the entire food supply chain from production until consumption and also includes inedible parts. Hence, food waste can comprise items which include parts of food intended to be ingested and parts of food not intended to be ingested.* The same Delegated decision also specifies that *food waste does not include losses at stages of the food supply chain where certain products have not yet become food, such as edible plants which have not been harvested or by-products from the food production (recital 3).*

That Delegated Decision also foresees that Member States should have the possibility to report information on food originally intended for human consumption and then directed to animal feed in a

¹ **Article 2,2**

(b) animal by-products including processed products covered by Regulation (EC) No 1774/2002, except those which are destined for incineration, landfilling or use in a biogas or composting plant;

(c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No 1774/2002;

(e) substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 of the European Parliament and of the Council (2) and that do not consist of or contain animal by-products

Article 5

1. Member States shall take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met:

(a) further use of the substance or object is certain;

(b) the substance or object can be used directly without any further processing other than normal industrial practice;

(c) the substance or object is produced as an integral part of a production process; and

(d) further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts

² **Commission Delegated Decision (EU) 2019/1597 of 3 May 2019 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste, recitals**

*(2) The definition of 'food' laid down in Regulation (EC) No 178/2002 of the European Parliament and of the Council (2) encompasses food as a whole, along the entire food supply chain from production until consumption. **Food also includes inedible parts**, where those were not separated from the edible parts when the food was produced, such as bones attached to meat destined for human consumption. **Hence, food waste can comprise items which include parts of food intended to be ingested and parts of food not intended to be ingested.***

*(3) **Food waste does not include losses at stages of the food supply chain where certain products have not yet become food** as defined in Article 2 of Regulation (EC) No 178/2002, **such as edible plants which have not been harvested.** In addition, it does not include by-products from the production of food that fulfil the criteria set out in Article 5(1) of Directive 2008/98/EC, since such by-products are not waste.*

(5) The attribution of food waste to the different stages of the food supply chain should be carried out in accordance with the common statistical classification of economic activities in the Union established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council (3) as 'NACE Revision 2'. In the absence of a pertinent NACE Rev. 2 classification, the attribution to 'households' should be carried out by reference to point 1.2 of Section 8 of Annex I to Regulation (EC) No 2150/2002 of the European Parliament and of the Council (4).

(7) Agricultural material referred to in Article 2(1)(f) of Directive 2008/98/EC and animal by-products referred to in Article 2(2)(b) of Directive 2008/98/EC are excluded from the scope of that Directive and should therefore not be measured as food waste.

³ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety

uniform manner on a voluntary basis,⁴ as well as on amounts of food waste regarded as composed of parts of food intended to be ingested by humans⁵

The Presidency therefore concludes that an EU food waste definition already exists and that it is therefore not needed to repeat it in this targeted amendment and that addressing the prevention of food losses goes beyond the scope of the Waste Framework Directive.

(2) Food waste prevention measures (Art.9a (1))

During the Working Party meeting of 19 February many Member States expressed their support to the proposed draft changes to the text of article 9a (1). The Presidency looked into the option of adding wording regarding activation of citizens. However, it is the Presidency's understanding that recital (7) of the Commission's proposal, already addresses this issue, pointing out that besides raising awareness, *eliciting behavioural change* is needed. Which behavioural change interventions to develop, is left to the Member States, so that these interventions can be *tailored to specific situations and needs in Member States*. Furthermore, the Presidency looked into the option of adding exemplary food waste prevention measures in annex IV of the WFD. However, given the absence of effectiveness evaluations of food waste prevention measures, it is difficult to identify which food waste prevention measures would be best suited to be taken up in annex IV of the WFD. The EU platform on Food Losses and Food Waste provides Member States with an opportunity to exchange experiences and best practices.

In order to support Member States in taking action, the Commission has, since 2015, taken initiatives to clarify and harmonise relevant legislation (e.g., adoption of EU guidelines on food donation⁶, followed by amendments to food hygiene rules to facilitate safe food donation practices, as well as EU guidelines regarding the feed use of food no longer intended for human consumption⁷). The Commission has also established, as of 2016 the [EU Platform on Food Losses and Food Waste](#)⁸ (FLW) which adopted its own deliverables (e.g., [recommendations for action in food waste prevention](#)⁹). The sharing of best practice and solutions to reduce food waste across the EU is also facilitated through the digital [EU Food Loss and Waste Prevention Hub](#)¹⁰. The RESTwithEU pilot project¹¹ evaluates and recommends digital tools to reduce food waste in the restaurant industry. Supporting consumer behavioural change is addressed by a dedicated sub-group of the Platform and a best practice compendium, developed by the EU pilot project, the European Consumer Food Waste Forum¹². In order to strengthen the evidence base for food waste prevention, the Joint Research Centre carries out assessments of the effectiveness of food waste prevention interventions¹³, supported by an evaluation

⁴ Article 3(d) and recital 11, Commission Delegated Decision (EU) 2019/1597 of 3 May 2019 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste, recital 11 and art. 3(d).

⁵ Article 3(a), Commission Delegated Decision (EU) 2019/1597 of 3 May 2019 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste, art. 3(a).

⁶ OJ C 361, 25.10.2017, p. 1–29.

⁷ OJ C 133, 16.4.2018, p. 2–18.

⁸ https://food.ec.europa.eu/safety/food-waste/eu-actions-against-food-waste/eu-platform-food-losses-and-food-waste_en

⁹ https://food.ec.europa.eu/system/files/2021-05/fs_eu-actions_action_platform_key-rcmnd_en.pdf

¹⁰ https://ec.europa.eu/food/safety/food_waste/eu-food-loss-waste-prevention-hub/eu-member-state-page/show/FI

¹¹ <https://restwith.eu/>

¹² https://knowledge4policy.ec.europa.eu/projects-activities/european-consumer-food-waste-forum_en

¹³ European Commission, Joint Research Centre, Caldeira, C., Sala, S., De Laurentiis, V., *Assessment of food waste prevention actions. Development of an evaluation framework to assess the performance of food waste prevention actions*, Publications Office, 2019.

framework that can be utilised by all actors. Calls for proposals under the EU Research and Innovation Framework Programme [Horizon 2020](#)¹⁴ and [Horizon Europe](#)¹⁵ have been offering new opportunities for research and innovation to address food loss and waste.

Finally, following the alignment with the “social economy entities” definition in the textile part of the proposal, the Presidency also edited article 9a(1) to ensure consistency.

With the exception of the wording “social economy entities”, the Presidency therefore suggests not to make any additional changes to art. 9a (1) , adding wording on the Platform to recital (33).

(3) Methodology and minimum requirements for the uniform measurement of food waste levels (Art. 9a (2) and (3))

The empowerment mentioned in article 9a (3) needs framing in order to be legally sound. Also, Member States have suggested that the delegated acts should improve the method to measure the edible parts of food waste.

The Presidency therefore suggests to complement article 9a(3) with the objectives to be achieved through the delegated acts, namely “to improve the quality, reliability and comparability of data reported by MS on the levels of food waste, including methods in relation to the measurement of the fraction of food intended to be ingested by humans”.

(4) Food waste reduction targets: reference year (Art. 9a (5) and (6))

Many Member States have welcomed the option for using an earlier **reference year** and the option for using 2021 as a reference year. Using later reference years than 2021 would shorten the time between the reference year and the target year, making it even more difficult for Member States to achieve the 2030 targets. Further, using the average of some years including the year 2020, would not address the issue of stark decreases in tourism due to the CoViD-19 pandemic.

Some Member States repeated the need for a correction factor that takes into account tourism. The Presidency keeps this as a placeholder to look into this issue again when similar discussions (in the Packaging and Packaging Waste Regulation (PPWR)) have evolved.

The Presidency therefore proposes no further adjustments to these paragraphs.

(5) Food waste reduction targets: target levels and review clause (Art. 9a (4) and (7))

Following the discussion during the previous Working Party Meetings, the Presidency suggests to keep the target levels as proposed by the Commission, adding “at least”, as this seems to be the middle ground between Member States that want to be more ambitious and Member States that have concerns that the proposed targets cannot be achieved. Furthermore, the Presidency believes it is important to ensure a stable legal environment and avoid a downward revision of the target levels, and therefore proposes to keep the deletion in art. 9a7 of the option to modify the targets for 2030 following a review.

Some Member States have asked for a revision of the method before 2030. However, keeping the methodology as is for the 2030 targets helps avoid an increased burden for Member States, as delegated decision EU 2019/1597 point (13) explains: *In order to ensure proportionality and to reduce administrative burden, Member States should be provided with a range of methods for the measurement of food waste for the purposes of those yearly reports, including the existing analyses of food waste*

¹⁴ See projects [CHORIZO](#) and [ToNoWaste](#)

¹⁵ See projects [FOLOU](#) and [WASTELESS](#)

generation, new dedicated studies on food waste as well as data collected for waste statistics or reporting obligations on waste and other socioeconomic data, or a combination of those options. As far as possible, established sources of data such as the European statistical system, should be used. This would also allow Member States to build up measurement and reporting experience, completing two 4-year cycles (see delegated decision (EU) 2019/1597 point (12)) before the methodology is (potentially) being further harmonized.

Some Member States propose a target for food waste reduction in the primary production. As the current data on food waste in the primary production still need some improvement, the Presidency proposes no such target at this point in time.

The Presidency believes that setting a target for the edible part of household food waste is not possible at this point in time, because no agreed definition exists and not all Member States have reported on this fraction for 2020 and 2021. The current methodology in delegated decision (EU) 2019/1597 acknowledges that food waste contains both edible and inedible parts and states: that *Member States should carry out an in-depth measurement of the amounts of food waste. Such in-depth measurement should be conducted on a regular basis for each stage of the food supply chain and at least once every four years.*

For the reasons of a stable legal environment and to take the time to collect the necessary data to motivate new targets, the Presidency sticks to its previous proposal to look into the question of adding a target for the primary sector and a target for edible waste only during the review to consider setting new targets beyond 2030.

Following this, the reworded review clause in art. 9a(7) shall lead to a review by end 2027 that will look into:

- A target for food waste of primary production (‘other stages of the food supply chain’) (not losses, as not in scope of WFD) most likely to be met by a later date than 2030.
- Formulation of post-2030 food waste reduction targets for all stages of the food supply chain
 - o Primary production
 - o Processing & manufacturing
 - o Retail and other distribution of food, in restaurants and food services
- and for the edible fraction of food waste from households (Presidency suggested addition).

(6) Food waste prevention programmes (Art. 29, 29a, 29a (1), 29a (2))

Member States welcomed the previous Presidency suggestion to delete article 1 (8) of the Commission’s proposal, in that way ensuring that the legal basis for the existing food waste prevention programmes contained in Article 29(2a) of the WFD (which reads “*Member States shall adopt specific food waste prevention programmes within their waste prevention programmes*”) would be maintained.

In addition to this and in order to leave the flexibility for MS to have a stand-alone food waste prevention programme or to include their food waste prevention programme in their overall waste prevention programmes, the Presidency proposes slightly amend art. 29(2a), by replacing “within their waste prevention programmes” by “*which may be presented as part of their waste prevention programmes*”.

Textile Waste

(7) Article 1(2) - Definitions

a. Producer - Art. 3(4b)

During the previous Working Party meeting, the majority of Member States supported the inclusion of micro enterprises within the scope of the producer definition. In this context, the Presidency adapted recital 17, by deleting the word ‘*micro enterprises*’. Other changes to recital (17) are based on Member States’ suggestions to strengthen prevention by adding “and a prolonged lifespan” as well as “upgrading, remanufacturing” to the list of activities fostering a prolonged lifetime. Presidency kept the reference to upcycling as it sees it also as a valuable activity to extend a textile lifetime.

Regarding the concern of the administrative burden on micro enterprises, the Presidency refers to its Steering Note of 19 February (point (7), p. 4), in which it explains that the disproportionate regulatory burden is addressed in Article 8a(1)(d) WFD and article 22c(3)(c) of the current proposal. Additionally, the Presidency suggests to add the word “micro enterprises” in Article 22c(3)(c) and in article 22c(18) to put the emphasis to this type of enterprises. Some Member States proposed to introduce a definition or a provision on the disproportionate administrative burden of micro enterprises. However, the Presidency stresses that an EU definition or framework laying down the minimum requirements on disproportionate administrative burden is too prescriptive within a Directive and would in fact be very difficult to set up: procedures differ from Member State to Member State and consequently, administrative burden is very much depending of the national context. In recitals 18, 23 and 29 where reference is made to the specific context and needs of “small and medium sized enterprises, the word “micro enterprises” is added.

During last Working Party meeting, Member States declared that they believed there was no loophole with regards to the original wording “another” of paragraph (d) of Article 3 (4b).

The Presidency therefore suggests to go back to the original wording of the proposal.

To align the text with other EU legislation, such as the Directive 2011/83 on consumer rights¹⁶, the Presidency suggests to replace the wording “distance communication” by “distance contracts” in point (d) of article 3(4).

b. Making available on the market - Art. 3(4c)

Several Member States raised concerns about the definition of “making available on the market” that makes reference to the Union market instead of the Member State market.

Taking into account the legal basis of the WFD and to align with other *lex specialis* setting up national EPR by means of a Directive (WEEE Directive, SUP Directive), Presidency suggests to replace ‘Union market’ by ‘Market of a Member State’, adapting recital (17) accordingly.

c. End user - Art. 3(4g)

Some Member States noted that “consumer” does not include business consumers in the context of article 22a(7) and 22b(9) and suggested to replace it with “end users”.

¹⁶ Article 2 (7) of the Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, provides a definition of ‘distance contracts’ that encompasses distance communication: ‘*distance contract*’ means any contract concluded between the trader and the consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded.

Regulation (EU) 2019/1020 on market surveillance and compliance of products provides for a definition of “end user” which encompasses both consumers and professional end users¹⁷.

Presidency suggests replacing “consumer” with “end user” in article 22a(7) and 22b(9) and adding a definition of “end user” in article 3(4g), which refers to the definition laid down in Regulation (EU) 2019/1020.

d. Social enterprise – social economy entities (new Art. 3(4h) and 3(4i))

Multiple Member States asked for the inclusion of a definition of social enterprises and social economy entities.

The Presidency suggests to include a “**social economy entity**” definition in article 3(4h), based on the definition provided in the Council Recommendation (14113/23) on developing social economy framework conditions of 27 November 2023, with few legal editorial changes.

Social enterprises form a specific subgroup of social economy entities, and are therefore included in the definition of the latter. Consequently, when referring to “social economy entities”, the social enterprises are also covered. For this reason, the Presidency deletes the references to “social enterprises” in the rest of the proposal.

In order to ensure consistency throughout the proposal, the wording “social economy entities” has been adapted in all relevant articles and recitals, namely articles 9a(1)(d), 22a(4)(a)(4), 22c(5)(c), 22c(6)(a), (22c(10)), 22c(11), 22(11a) and (22d(3)), and recitals 18, 24, 25 and 31.

e. Textile products and waste textile

Some Member States have asked for a definition of textile products and waste textile.

With regard to textile products, there is a distinction to be made between on the one hand EPR requirements (Article 22a and 22c) and on the other hand Member States’ obligation to set up a separate collection for textiles (Article 22d(1)). In the former, textile products referred to in the EPR requirements are clearly defined as the list of products within Annex IVc – no additional definition is needed here. When it comes to the latter, however, a clear definition of the textile products which would have to be separately collected is indeed lacking. The Presidency believes this gives the flexibility to Member States to define themselves the scope of their separate collection, allowing them to go beyond Annex IVc.

For these reasons, the Presidency suggests to keep the wording as is and not to include a definition for textile products.

With regard to waste textile, the Presidency believes no definition is needed as the general definition provided in article 3(1) of the WFD can apply; meaning that waste textile is any textile substance or textile object which the holder discards or intends or is required to discard. Member States have however identified a few inconsistencies with the use of ‘textile waste’ and “textiles, textile-related and footwear products” within the proposal.

The Presidency proposes to remove these inconsistencies, replacing throughout the text

¹⁷ Art. 3(21) Regulation (EU) 2019/1020 : ‘end user’ means any natural or legal person residing or established in the Union, to whom a product has been made available either as a consumer outside of any trade, business, craft or profession or as a professional end user in the course of its industrial or professional activities;

- ‘textile waste’ by ‘waste textile’ (recitals 20, 22, 32, 40 and art. 1(5b), Title art. 22d, art. 22d.2);
- ‘textiles, textile-related and footwear products listed in Annex IVc’ by ‘textile, textile-related and footwear products listed in Annex IVc’ (art. 22a(5) and art. 22c(11));
- ‘textiles, textile-related and footwear products’ by ‘textile, textile-related and footwear products’ (recitals 17, 21, 22, 24, 29 and 32 and art. 22d(3), 22d(5)(a), 22d(7), 22d(8), 22d(8)(a), 22d(8)(c) and 22d(9));
- ‘textile and footwear products’ by ‘textile, textile-related and footwear products’ (art 3(4b), 22b(8), 22c(5)(b));
- ‘textiles and footwear products’ by ‘textile, textile-related and footwear products’ (art 22a(4)(c)).

(8) Article 1 (5) – Review clauses

During the last Working Party meeting, Member States welcomed the Presidency’s proposal adding a review clause on the setting of waste prevention, collection and waste treatment targets at a later stage. Member States also shared the need to match the timings of the newly proposed review clauses on targets (6a) and EPR fees (6b) as to avoid reopening the WFD too often. The Presidency believes that aligning both review clauses to 12/2028 would provide for a good compromise and the adequate timing: Member States will have 3 years of data available from the setup of their separate collection (2025) and will have implemented their EPR scheme for a year and a half (2027).

The Presidency adapted both timings to “the 31 December of 2028”. The Presidency also removed its proposal of replacement of paragraph 6 in article 11 (5a) as to avoid opening the debate on the scope of the planned 2024 review.

An additional recital (21a) has been added to mention the need for an assessment for the setting of targets and for the underfunding or overfunding of EPR schemes.

(9) Article 1 (7) – Article 22a Extended Responsibility scheme for textiles

(1) Scope of the EPR (art. 22a (1))

There was broad support from Member States to clarify that the scope of EPR includes products from other sources that are similar in nature and composition from households. Recital (19) has been adapted accordingly.

(2) Non waste operators and costs covering (art. 22a (4))

Several Member States asked for clarification on the concept of non-waste operators (article 22a(4)(a)(4)). It is Presidency’s understanding that “non waste operators” in article 22(a)(4) makes reference to the actors listed in article 22c(6)(a) with whom the PRO should cooperate.

Presidency suggests to add the word ‘actors’ in article 22c(6)(a) to be able to make a cross-reference to these actors in article 22a(4)(a)(4) as well as in article 22c(5)(c) - thereby, replacing “non waste operators” with “actors” in both article 22a(4)(a)(4) and 22c(5)(c).

The Presidency also noticed that article 22a(4)a(4) lacks a reference to paragraph (3) of the same article and suggests to clarify the wording by adapting the reference to previous paragraphs with “following operations (1), (2), (3)”.

During the previous working party meeting, several Member States could not support the Presidency's proposal to include the costs of the subsequent treatment of textiles that are collected in the mixed fraction in Article 22a(4)(a)(3). In order to accommodate these concerns, the Presidency suggests to remove the reference to the "quantities ending up in mixed municipal waste". Member States who are in favour of the addition have still the possibility to include it in their own national system, according to article 8a(4) (a) of the WFD. The addition of the wording "at least" did receive broad support, emphasising the possibility for Member States to include other costs, and remains in the text. Recital (21) has been adapted to reflect the non-exhaustive character of the lists of costs to be covered.

The Presidency also removed the addition "in view of article 22c(17) and 22c(11)" in paragraph (d) of article 22a(4) as it appeared redundant – see explanation under point (11.4) of the Presidency Steering Note "Social economy entities reporting (art. 22c (11a))".

(3) Covering the costs of imported used textiles (art. 22a(6))

Discussions during previous Working Party meetings have shown that some Member States have a high share of used textile consumption and that excluding producers of used textile from the EPR scope might lead to the underfinancing of their EPR scheme. The Impact Assessment¹⁸ states for these situations that: *"specific measures may prove to be necessary if the reuse markets become disproportionate compared to the EU averages and the share of textiles placed on the market. Setting appropriate monitoring requirements in the EPR to determine the contribution of reused textiles to waste generated in the future will be an important source of data to assist in informing such an EU wide future policy decision. Given the potential time-lag in data to inform such a decision there should be an option for Member States receiving used textiles from other countries to choose to include commercial (for profit) resale operators should they consider such inclusion warranted."* It is the Presidency's understanding that giving this flexibility does not lead to double fees for the same producer as article 22a (1) states that Member States shall ensure that producers have EPR for textile, textile-related and footwear products that they *make available on the market for the first time within the territory of a Member State*. The subject of the fee here is not the product, but its supply to the market by a producer for the first time within the territory of a Member State. Therefore, the supply of imported used textiles to the market of a Member State for sale can also become an object of fee, because it is the first time that these products are made available on the territory of that Member State and the producer is different (it is the commercial reuse operator.)

In this context, commercial reuse operators are to be understood as commercial entities, including social enterprises and social economy entities, which, following a preparation for reuse operation (e.g., sorting, repair), place used textiles back on the market¹⁹. Additionally, the 'Blue Guide' on the implementation of EU products rules provides guidelines on the concept of "commercial activity"²⁰.

¹⁸ IA 3/4, p. 133

¹⁹ Based on the definition within the Annex 10 of the IA 3/4 (p. 130): *"Reuse operators are commercial or non-commercial entities (non-for profit, charity organizations and social enterprises) which following a preparation for reuse operation (e.g., sorting, repair) place used textiles back on the market"*

²⁰ The 'Blue Guide' on the implementation of EU products rules 2016 (point 2.2) *"Commercial activity is understood as providing goods in a business related context. Non-profit organisations may be considered as carrying out commercial activities if they operate in such a context. This can only be appreciated on a case by case basis taking into account the regularity of the supplies, the characteristics of the product, the intentions of the supplier etc. In principle, occasional supplies by charities or hobbyists should not be considered as taking place in a business related context."*

Consequently, the Presidency proposes to add a new recital 18(a) and add wording in article 22a(6) giving Member States the possibility for PROs to receive a contribution from commercial reuse operators to cover the waste management costs referred to in paragraph 4, point (a)(3) in case they consider such measure necessary, in consideration of the high rates of used textiles imported from other countries.

This would come in addition to the previous Presidency proposal to add a review clause in article 1 (5) (c), inserting a new paragraph 6b under article 11 (6) WFD, mandating the Commission to assess whether the EPR established by this directive ensures that the fees paid, fully cover the costs, and where appropriate propose amendments to ensure full cost recovery.

(4) Online platforms (art. 22a (7))

The Presidency keeps this as a placeholder to look into this issue again when similar discussions (in the Packaging and Packaging Waste Regulation (PPWR)) have evolved.

(10) Article 1 (7) – Article 22b Textile, textile-related and footwear producer register

(1) EU wide register (art. 22b (1))

Most Member States supported the Presidency’s proposal to include an EU-wide EPR information website referring to the various national registers. Some Member States proposed to establish an EU wide register, implemented by the Commission. The Presidency believes that an EU wide register cannot be applied here. The purpose of this directive is to harmonise national EPR schemes for textiles and not to replace national EPR schemes by an EU wide scheme. This implies that Member States remain in charge of their national EPR schemes. Therefore, going further than connecting national registers via an EU wide EPR information website goes beyond the scope of this revision.

(2) Implementing Act harmonised registration format (art. 22b 10)

In view of legal correctness, the Presidency suggests to change ‘develop’ back to ‘adopt’.

(11) Article 1 (7) – Article 22c Producer Responsibility organisations for textiles

(1) Ecomodulation of fee & administrative burden (art. 22c (3))

The Presidency made editorial changes to Article 22c(3) to ensure consistency throughout the text, adding the wording “textile related and footwear products” to paragraph (a). Recital (27) has also been adapted accordingly.

(2) Connected collection points and municipalities (art. 22c (5) & (6) & (11))

Several Member States asked for clarifications with regards to the ‘*connected collection points*’ for which nor the proposal, nor the Impact Assessment provide a definition.

The Presidency understands that ‘connected collection points’ refers to the collection system. In order to avoid confusion, the Presidency proposes to make explicit reference to the collection system with the wording “collection points established within the producers responsibility organisation’s collection system”, removing “connected” in article 22c(5)(a), 22c(5)(b), 22c(5)(c) and 22c(11).

Furthermore, Member States asked to anchor the importance of the municipalities within the proposal. Recital (24) does indeed state that collection network should be organized in cooperation with actors active in waste management and re-use, citing the municipalities.

The Presidency suggests to adapt article 22c(6) with the wording “public authorities including municipalities“.

The Presidency also made some editorial changes to article 22c(6) making explicit reference to “one or more of the following actors” as well adding “operators of “ voluntary collection points, ensuring a better understanding of the wide range of actors PRO’s should cooperate with. Ensuring cross-reference between article 22c(6) and 22c(5)(c), the word “non waste operator” has been replaced with “actors” in 22c(5)(c) - as explained under point (9.2) of the Presidency’s Steering Note.

(3) Calculation of the separate collection rate (art. 22c (8) & (9))

The calculation method of the separate collection rate in article 22c(8) has been the subject of debate during the Working Party meetings. Some Member States are in favour of the total waste textile as denominator and other Member States are in favour of products placed on the market as denominator.

In the case of setting a separate collection target, both methodologies could be used, but the results are not comparable. Therefore, the Presidency proposes to have one method, and sticks to its proposal as presented to the Working Party of 19 February.

To ensure harmonisation of data and reporting across systems, the Presidency suggests to add within the scope of the implementing acts referred to in article 22c(9) the “ rates of re-use, preparing for re-use and recycling” and in that case, referring both to paragraph (a) of article 22c(17) and paragraph 3 of article 22c(11a).

Finally, in view of legal correctness, the Presidency suggests to also change ‘develop’ back to ‘adopt’ within article 22c(9).

(4) Social economy entities reporting (art. 22c (11a))

Many Member States welcomed the Presidency’s proposal adding a provision on the obligations for social economy entities to report to the competent authority. The Presidency would like to clarify that such reporting only applies to those social economy entities that keep an independent collection from the PRO’s collection as referred to in Article 22c(11). As a matter of fact, social economy entities that are part of the PRO’s collection system referred to in article 22c (5) will indeed report to the PRO. Member States also suggested to align social economy entities’ reporting with other yearly reporting, adding “on a yearly basis” to the provision.

The social economy reporting is meant to contribute to the Member States reporting obligations in accordance with article 37 of the WFD whereby Member States shall report on the textile waste generation²¹ as well as on the quantitative data on the reuse of textiles²². To clarify this contribution, the Presidency added the reference to this reporting within Article 1(10) of the proposal, amending article 37 (3) of the WFD. In this context and following the original proposal of the Commission in article 22a(4)(d) that PRO shall cover the costs of data gathering and reporting to the competent

²¹ Annex V of the COMMISSION IMPLEMENTING DECISION (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012) 2384

²² Annex of the COMMISSION IMPLEMENTING DECISION (EU) 2021/19 of 18 December 2020 laying down a common methodology and a format for reporting on reuse in accordance with Directive 2008/98/EC of the European Parliament and of the Council

authorities in accordance with Article 37, the costs of reporting from the social economy entities have to be covered.

Presidency suggests to clarify article 22c(11a) accordingly, adding reference to the paragraph 11 and “on a yearly basis”.

(5) Permits requirements (art. 22c (12))

Member States raised concerns on the lack of control of the collection points if in accordance with article 22c(12), they are excluded from the registration and permits requirements of the WFD. The Presidency refers to its Steering Note of 19 February (point (12), p. 8), in which it explains that the registration and permit requirements are for the entities that operate the collection points.

To accommodate Member States concerns however, the Presidency suggests to give the possibility to Member States to ask for a registration of the collection points as part of the permit requirements of its operators, adapting the wording of article 22c(12).

(6) PRO’s reporting obligations (art. 22c (17))

Following the discussions of the previous Working Party meeting, the Presidency noticed its attempt to clarify the PRO’s reporting obligations in article 22c(17) might create confusion and suggests to remove partially its proposal, ensuring:

- The reporting of the collection rate of the used and waste textile, textile-related and footwear products by the PRO. Indeed, PRO’s shall report both on the collection of waste textiles and on the collection of used textiles collected in cooperation with social economy entities and re-use operators referred to in article 22c(6) and 22c(10).
- All producers report on the collection rate of unsold products. Indeed, making reference to the reporting in article 20 of the ESPR might create a loophole as SME’s are exempted from this reporting under ESPR. This exemption however does not apply within the scope of the proposal, creating legal uncertainty.

The proposal to report additionally to the competent authority and the reference to the quantity by weight did however help clarify and answered Member States concerns.

The Presidency removed partially its original proposal to article 22c(17), keeping the addition of the reporting to the competent authority and the reference to the quantity by weight.

(12) Article 1(7) – Article 22d Management of waste textile

(1) Classification of waste (art. 22d (3))

During the last Working Party meeting, some Member States supported the Presidency’s proposed changes to article 22d (3), whereas other Member States raised issues with the proposed changes. The Presidency would like to clarify to Member States that it seeks a solution where the “grey zone” is as small as possible. If Member States want to solve the issues related to waste textile and used textiles that we face today, it is key that we know what happens in terms of collection, sorting, reuse and export for reuse and export for recycling for as many textiles as possible.

Therefore, the Presidency maintains the proposed changes. Further, the Presidency adds the word “used” for two reasons: (1) this facilitates to distinguish between used textiles and waste textile for the purpose of reporting on reuse and (2) this clarifies that in case of export the provisions under 22d (7) to (10) apply, thus avoiding loopholes.

(2) Sorting requirements (art. 22d (5))

Following Member States' suggestions, The Presidency redrafted the reference to the Union end-of waste criteria in article 22d(5) with a clear reference to an implementing act and the WFD – making the provision more legally sound.

The Presidency added Member States' suggestion to add “prioritizing local re-use” to paragraph (a) of article 22d(5) with the objective of strengthening prevention within the proposal.

(3) Compositional survey (art. 22d (6))

The Presidency proposes to add footwear products to Article 22d(6), in order to ensure consistency with recital 24, which also refers to the amount of footwear.

(13) Article 1 (10) – article 37 Reporting

(1) Textiles Reuse reporting (art. 37 (3))

Member States identified a loophole within the Commission proposal with regards to the reporting obligations of Member States on quantitative data on the reuse of textiles pursuant article 9(4)²³. According to the proposed amendments to Article 37(3) Member States shall not be required to report quantitative data on the re-use of textiles pursuant to Article 9(4). This is based on the expectation that the reports of data referred to in Article 22c(17) will include re-use rates. However, while Article 9(4) concerns waste prevention and measures related to re-use and the measuring of re-use based on a common methodology established by the implementing act referred to in Article 9(7), Article 22c(17) is much more narrow.

The Presidency therefore suggests to reconsider this exemption and to clarify that Member States' reporting on quantitative data on the re-use of textiles shall rely on the data referred to in article 22c (17) and 22c(11a).

Any additional comments and concrete text suggestions, are welcome either before the Working party meeting or after (preferably by 7 March 2024, 1pm) to the Presidency :

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copying the Commission (Karolina.D'CUNHA@ec.europa.eu; Vincenzo.GENTE@ec.europa.eu; Bartosz.ZAMBRZYCKI@ec.europa.eu; Cristina-Alexandra.EFTIMIE@ec.europa.eu; Rikke.KARLSSON@ec.europa.eu)

and the Council Secretariat (pavel.dostalík@consilium.europa.eu; aimilena.vourliotaki@consilium.europa.eu; environment@consilium.europa.eu)

²³ Annex of the COMMISSION IMPLEMENTING DECISION (EU) 2021/19 of 18 December 2020 laying down a common methodology and a format for reporting on reuse in accordance with Directive 2008/98/EC of the European Parliament and of the Council

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2008/98/EC on waste

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Green Deal and the Circular Economy Action Plan³ 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 respectively⁴ 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.
- (2) According to the EU Strategy for Sustainable and Circular Textiles⁵, important changes are needed to move away from the currently prevailing linear way in which textile products are designed, produced, used and discarded, with a particular need to limit fast fashion. That Strategy considers it important to make producers responsible for the waste that their products create and refers to the establishment of harmonised Union extended producer responsibility rules for textiles with eco-modulation of fees. It provides that the key objective of such rules is to create an economy for collection, sorting, re-use, preparation for re-use and recycling, and to incentivise producers to ensure that their products are designed in respect of circularity principles. To that end, it foresees that a notable share of contributions made by producers to extended producer

¹ OJ C , , p. .

² OJ C , , p. .

³ COM(2020)98 final of 11 March 2020.

⁴ EU Transition Pathways (europa.eu)

⁵ COM(2022)141 final of 30 March 2022.

responsibility schemes have to be dedicated to waste prevention measures and preparation for re-use. It also supports the need for strengthened and more innovative approaches to sustainable management of biological resources to increase the circularity and valorisation of food waste and re-use of bio-based textiles.

- (3) Having regard to the negative effects of food waste, Member States committed themselves to taking measures to promote the prevention and reduction of food waste in line with the 2030 Agenda for Sustainable Development, adopted by the United Nations (UN) General Assembly on 25 September 2015, and in particular its target of halving per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses, by 2030. Those measures aimed to prevent and reduce food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households.
- (4) As a follow-up to the Conference on the Future of Europe, the Commission committed itself to enabling citizens' panels to deliberate and make recommendations ahead of certain key proposals. In this context, a European Citizens' panel was convened, from December 2022 to February 2023 to elaborate a list of recommendations⁶ on how to step-up actions to reduce food waste in the Union. As households account for over half of food waste generated in the Union, citizens' insights on food waste prevention are particularly relevant. Citizens recommended three principal lines of action including strengthening cooperation in the food value chain, food business initiatives and supporting consumer behavioural change. The panel's recommendations will continue to support the Commission's overall work programme related to food waste prevention and may serve as a guide to help Member States in achieving the food waste reduction targets.
- (5) Directive 2009/31/EC of the European Parliament and of the Council⁷ excluded from the scope of Directive 2006/12/EC of the European Parliament and of the Council⁸ carbon dioxide captured and transported for the purposes of geological storage and geologically stored pursuant to the requirements of Directive 2006/12/EC. The provision in Directive 2009/31/EC amending Directive 2006/12/EC was not, however, incorporated in Directive 2008/98/EC of the European Parliament and of the Council⁹, which repealed Directive 2006/12/EC. Therefore, for the purposes of ensuring legal certainty, this Directive incorporates the amendments of Directive 2009/31/EC concerning the exclusion of carbon dioxide captured and transported for the purposes of geological storage and geologically stored from the scope of Directive 2008/98/EC.
- (6) Definitions of producers of textile products, online platforms and producer responsibility organisations linked to the implementation of the extended producer responsibility for textiles need to be included in Directive 2008/98/EC so that the scope of these concepts and linked obligations is clarified.
- (7) Member States have, to a certain extent, developed materials and carried out campaigns targeting food waste prevention for consumers and food business operators; however, these mainly focus on raising awareness rather than eliciting behavioural change. In order to reach the full potential for reducing food waste and ensure progress over time, behavioural change interventions have to be developed, tailored to the specific situations

⁶ For the complete list of recommendations, see Annex 16 of the Impact Assessment Report.

⁷ OJ L 140, 5.6.2009, p. 114.

⁸ OJ L 114, 27.4.2006, p. 9.

⁹ OJ L 312, 22.11.2008, p. 3.

and needs in Member States, and fully integrated in national food waste prevention programmes. Importance should also be given to regional circular solutions, including public-private partnerships and citizen engagement as well adaptation to specific regional needs such as outermost regions or islands.

- (8) Despite the growing awareness of the negative impacts and consequences of food waste, the political commitments made at EU and Member State levels, and Union measures implemented since the 2015 Circular Economy Action Plan, food waste generation is not sufficiently decreasing to make significant progress towards achieving Target 12.3 of the UN Sustainable Development Goal (SDG) 12. In order to ensure significant contribution towards the attainment of SDG Target 12.3, the measures to be taken by Member States should be strengthened to make progress in the implementation of this Directive and of other appropriate measures to reduce food waste generation.
- (9) In order to achieve results in the short term, and to give food business operators, consumers and public authorities the necessary perspective for the longer term, quantified targets for reduction of food waste generation, to be achieved by Member States by 2030, should be set.
- (10) Having regard to the Union's commitment to the ambition set out in SDG Target 12.3, the setting of food waste reduction targets to be achieved by Member States by 2030 should provide a strong policy impulse to take action and ensure a significant contribution to global targets. However, given the legally binding nature of such targets, they should be proportionate and feasible, and take into account the role of different actors in the food supply chain as well as their capacity (in particular micro and small enterprises). The establishment of legally binding targets should thus follow a step-wise approach, starting with a level which is lower than the one set under the SDG, with a view to ensuring a consistent response of Member States and tangible progress towards Target 12.3.
- (11) Reducing food waste at the production and consumption stages requires different approaches and measures and involves different stakeholder groups. Therefore, one target should be proposed for the processing and manufacturing stage and another one for the retail and other distribution of food, restaurants and food services and households.
- (12) Bearing in mind the interdependence between the distribution and consumption stages in the food supply chain, in particular the influence of retail practices on consumer behaviour and the relation between food consumption in- and out-of-home, it is advisable to set up one joint target for these stages of the food supply chain. Setting separate targets for each of these stages would add unnecessary complexity and would limit Member States' flexibility in focusing on their specific areas of concern. In order to avoid that a joint target results in excessive burden on certain operators, Member States will be advised to consider the principle of proportionality in setting up measures to reach the joint target.
- (13) Demographic changes have a significant impact on the amount of food consumed and food waste generated. Therefore, a joint food waste reduction target, applying to retail and other distribution of food, restaurants and food services and households, should be expressed as a percentage change in food waste levels per capita in order to take into account population changes. **[placeholder: wording regarding tourism correction factor, based on outcome of PPWR]**

- (14) Based on the harmonised methodology set out in Commission Delegated Decision (EU) 2019/1597¹⁰, the first year for which data on food waste levels were collected was 2020. Therefore, the year 2020 should be used as a baseline for setting food waste reduction targets. For Member States, which can demonstrate that they performed food waste measurements before 2020, using methods consistent with Delegated Decision (EU) 2019/1597, the use of an earlier baseline should be allowed.
- (15) In order to ensure that the step-wise approach towards the achievement of the global target delivers its objectives, the levels set for the legally binding targets on reduction of food waste, should be reviewed and revised, if appropriate, to take into account the progress made by Member States over time. This would allow for a possible adjustment of the targets in view of strengthening the Union's contribution and further aligning **alignment** with SDG Target 12.3, to be reached by 2030 and providing direction for further progress beyond that date.
- (16) In order to ensure better, timelier, and more uniform implementation of the provisions related to food waste prevention, to anticipate any implementation weaknesses, and to allow taking action ahead of the deadlines for meeting the targets, the system of early warning reports, introduced in 2018, should be extended to cover food waste reduction targets.
- (17) In line with the polluter-pays principle, as referred to in Article 191(2) of the Treaty on the Functioning of the European Union (TFEU), it is essential that the producers placing on the **Market of a Member State** ~~Union market~~ certain textile, textile-related and footwear products take responsibility for their management at their end-of life as well as extending their lifetime through making used textile, textile-related and footwear products available on the market for re-use. To implement the polluter pays principle, it is appropriate to lay down the obligations for the management of textile, textile-related and footwear producers, which include any manufacturer, importer or distributor, that, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2, point (7), of Directive 2011/83/EU of the European Parliament and of the Council¹¹, makes available those products on the market for the first time within a territory of a Member States on a professional basis under its own name or trademark. The scope of the producers covered by the extended producer responsibility should exclude ~~micro-enterprises and~~ self-employed tailors producing customised products in view of their reduced role in the textile market as well as those placing on the market used textiles, textile-related and footwear products or such products derived from used or waste of those products in view of supporting re-use **and a prolonged lifetime**, including through repair, refurbishment, **upgrading, remanufacturing and** and upcycling whereby certain functionalities of the original product is changed, within the Union.
- (18) There are wide disparities in the way separate collection of textiles are or are planned to be set up, whether through extended producer responsibility schemes or other approaches. Where extended producer responsibility schemes are considered, there are also broad disparities, such as on the products in their scope and the responsibility of

¹⁰ Commission Delegated Decision (EU) 2019/1597 of 3 May 2019 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste (OJ L 248, 27.9.2019, p. 77).

¹¹ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

producers as well as governance models. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of textile, textile-related and footwear products. However, they should be complemented by further specific provisions relevant for the textile sector characteristics, in particular, the high share of **micro**, small and medium-sized enterprises (SMEs) among the producers, the role of **social economy entities, including** ~~social enterprises~~ and the importance of re-use in increasing the sustainability of the textile value chain. They should also be more detailed and harmonised to avoid creating a fragmented market that could have a negative impact on the sector, particularly on micro enterprises and SMEs, for the collection, treatment ~~and recycling~~, as well as to provide clear incentives for sustainable textile product design and policies and facilitate the markets of secondary raw materials. In this context, Member States are encouraged to consider authorising multiple producer responsibility organisations as competition among such producer responsibility organisations may lead to greater consumer benefits, increase innovation, lower costs, improve collection rates, and increase choices for producers seeking to contract with such organisations.

(18a) Some MS have a higher share of reused textiles placed on their market compared to the EU average, posing possible problems of cost coverage of the EPR fee for the waste management of these reused textiles. Setting appropriate monitoring requirements in the EPR to determine the contribution of reused textiles to waste generated in the future will be an important source of data to assist in informing an EU wide future policy decision to include “those that supply used textiletextile-related and footwear products listed in Annex IVc and textile, textile-related and footwear products listed in Annex IVc derived from such used or waste products or their parts on the market”. Given the potential time-lag in data to inform such a decision there should be an option for Member States receiving used textiles from other countries to include commercial reuse operators should they consider such inclusion justified. Commercial reuse operators should be understood as commercial entities, including social enterprises and social economy entities, which, following a preparation for reuse operation (e.g., sorting, repair), place used textiles back on the market. Taking into account the Blue Guide on the implementation of EU products rules 2016, a commercial activity is understood as providing goods in a business related context. Non-profit organisations may be considered as carrying out commercial activities if they operate in such a context. This can only be appreciated on a case by case basis taking into account the regularity of the supplies, the characteristics of the product, the intentions of the supplier etc. In principle, occasional supplies by charities or hobbyists should not be considered as taking place in a business related context.

(19) The household textile and apparel clothing comprise the largest share of Union textile consumption and the biggest contributor to unsustainable patterns of over production and overconsumption. Household textiles and apparel are also the focus of all existing separate collection systems in Member States along with other post-consumer apparel and accessories and footwear that are not primarily composed of textiles. Therefore, the scope of the established extended producer responsibility scheme should cover **textile, textile-related and footwear products from households and from other sources, where such products are similar in nature and composition to those from households** ~~household textile products and other articles of apparel, clothing accessories and footwear~~. In order to ensure the legal certainty for the producers on the products subject to the extended producer responsibility, the products in scope should be

identified by reference to the Combined Nomenclature codes pursuant to Annex I to Council Regulation (EEC) No 2658/87¹².

- (20) The textile sector is resource intensive. While, in relation to both the production of raw materials and textiles, most of the pressures and impacts related to the consumption of clothing, footwear and household textiles in the Union occur in third countries, they also affect the Union due to their global impact on climate and the environment. Therefore, preventing, preparing for re-use and recycling ~~textile-waste~~ **textile** can help reduce the global environmental footprint of the sector, including in the Union. In addition, the current resource-inefficient waste management of ~~textile~~ waste **textile** is not in line with the waste hierarchy and leads to environmental harm both in the Union and in third countries, including through greenhouse gas emissions from incineration and landfilling.
- (21) The purpose of the extended producer responsibility for textiles, textile-related and footwear products is to ensure a high level of environmental and health protection in the Union, create an economy for collection, sorting, re-use, preparation for re-use and recycling, in particular, fibre-to-fibre recycling, as well as incentives for producers to ensure that their products are designed in respect of circularity principles. The 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 to ensure that the extended producer responsibility obligations do not apply retroactively and comply with the principle of legal certainty. Those producers should also **at least** finance the costs of carrying out compositional surveys of mixed collected municipal waste, support to research and development in **ecodesign of textiles that do not contain any hazardous substances**, sorting and recycling technologies, reporting on separate collection, re-use and other treatment and of providing information to end-users about the impact and sustainable management of textiles.
- (21a) Given the lack of robust data on waste textile and on the financing of the extended producer responsibility to be set up by Member States, the Commission shall review the current proposal by 31 December 2028 to introduce waste prevention, collection, preparing for reuse and recycling targets as well as evaluating whether national extended producer responsibility schemes are under- or overfunded in case there is an imbalance between the quantities made available on the market for the first time, the second hand market and the waste treatment facilities in that Member State.**
- (22) Producers should be responsible for setting up collection systems for the collection of all used and waste textiles, textile-related and footwear products and ensuring that they are subsequently subject to sorting for re-use, ~~preparation~~ **preparing** for re-use and recycling to maximise the availability of second-hand clothing and footwear and reduce the volumes for types of waste treatment that are lower in the waste hierarchy. Ensuring that textile products can be and are used and re-used for longer is the most effective way of significantly reducing their impact on the climate and the environment. This should also enable sustainable and circular business models such as re-use, renting and repair, take-back services and second-hand retail creating new green quality jobs and cost-saving opportunities to citizens. Making producers responsible for the waste that their

¹² OJ L 256, 7.9.1987, p. 1.

products create is essential to decouple ~~textile-waste~~ **textile** generation from the growth of the sector. Therefore, the producers should also be responsible for the recycling, in particular, prioritising the scaling up of fibre-to-fibre recycling, and other recovery operations and disposal.

- (23) Producers and producer responsibility organisations should finance the scaling up of textile recycling, in particular, fibre-to-fibre recycling enabling the recycling of a broader variety materials and creating a source of raw materials for textile production in the Union. It is also important that the producers support financially research and innovation into technological developments in automatic sorting and composition sorting solutions that allow the separation and recycling of mixed materials and the decontamination of the waste to enable high-quality fibre-to-fibre recycling solutions and the uptake of recycled fibre content. To facilitate compliance with this Directive, Member States should ensure that information and assistance are available to economic operators from the textile sector, especially **micro**, small and medium enterprises, which should take the form of guidance, financial support, access to finance, specialised management and staff training material, or organisational and technical assistance. If support is financed through state resources, including when wholly financed by contributions imposed by the public authority and levied on the undertakings concerned, it may constitute State aid within the meaning of Article 107(1) TFEU; in such cases, Member States have to ensure compliance with State aid rules. The mobilisation of private and public investment in the circularity and decarbonisation of the textile sector are also the focus of several Union funding programmes and roadmaps such as Hubs for Circularity and specific calls under Horizon Europe. It is also necessary to further assess the feasibility of setting Union targets for the recycling of textiles to support and drive technological development and the investments into recycling infrastructure as well as the push for ecodesign for recycling.
- (24) Used and waste textiles, textile-related and footwear products should be collected separately from other waste streams, such as metals, paper and cardboard, glass, plastics, wood and bio-waste from 1 January 2025 to maintain their reusability and potential for high-quality recycling. Considering the environmental impact and the loss of materials due to used and waste textiles not being separately collected, and consequently not treated in an environmentally sound manner, the collection network of used and waste textiles, textile-related and footwear products should cover the whole territory of Member States including the outermost regions, be close to the end-user and not target only areas and products where the collection is profitable. The collection network should be organised in cooperation with other actors active in the waste management and re-use sectors, such as municipalities and **social economy entities, including social enterprises**. In view of the significant environmental and climate benefits associated with re-use, the primary and secondary purpose of the collection network should be the collection of re-usable and recyclable textile, textile-related and footwear products accordingly. Since the consumer is not trained to distinguish between re-usable and recyclable items, the collection systems should, including for logistical efficiency purposes, provide for the collection receptacles that collect both used and waste items together. High collection rates would drive high re-use performance and quality recycling in the textile supply chains, boost the uptake of quality secondary raw materials and support the investment planning in the textile sorting and processing infrastructure. In order to verify and improve the effectiveness of the collection network and the information campaigns, regular compositional surveys at least at NUTS 2 level should be carried out on mixed municipal waste collected to determine the amount of waste textiles and footwear therein. In addition, information on the performance of the

separate collection systems and the attained annual separate collection rate should be calculated and made publicly available annually by the producer responsibility organisations.

- (25) In view of the key role of ~~social enterprises, and~~ social economy entities in the existing textile collection systems and their potential to create local, sustainable, participatory and inclusive businesses models and quality jobs in the Union, in line with the objectives of the EU Social Economy Action Plan¹³, the introduction of extended producer responsibility schemes should maintain and support the activities of ~~social enterprises, and~~ social economy entities involved in used textiles management. These entities therefore should be regarded as partners in the separate collection systems supporting the scale-up of re-use and repair and creating quality jobs for all and in particular for vulnerable groups.
- (26) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, that used and waste textiles and footwear should be collected separately, that collection systems are available and that end-users have an important role in ensuring waste prevention and an environmentally optimal management of textiles waste. This information should include availability of re-use arrangements for textiles and footwear and the environmental benefits of sustainable consumption and the environmental, health and social impacts of the textile apparel industry. The end users should also be informed about their important role in making informed, responsible and sustainable textile consumption choices and ensuring an environmentally optimal management of textile and footwear waste. These information requirements apply in addition to the requirements on the provision of information to end-users in relation to the textile products laid down in the Ecodesign for Sustainable Product Regulation¹⁴ and the Regulation (EU) No 1007/2011 of the European Parliament and of the Council¹⁵. The disclosure of information to all end users should make use of modern information technologies. The information should be provided both by classical means, such as posters both indoors and outdoors and social media campaigns, and by more innovative means, such as electronic access to websites provided by QR codes.
- (27) In order to increase textiles' circularity and environmental sustainability and to reduce the adverse impacts on climate and the environment, Regulation .../... [PO insert the serial number and institutions for the Ecodesign for Sustainable Product Regulation, and complete the footnote]¹⁶ will develop binding textile **and footwear** product ecodesign requirements, which will, depending on what the impact assessment will show to be beneficial for increasing textile environmental sustainability, regulate durability, reusability, reparability, and fibre-to-fibre recyclability of textiles, and mandatory recycled fibre content in textiles. It will also regulate the presence of substances of concern to allow their minimisation and tracking in view of reducing waste generation and improving recycling, as well as the prevention and reduction of synthetic fibres shed into the environment to significantly reduce microplastic release. At the same time, modulation of extended producer responsibility fees is an effective economic instrument

¹³ COM (2021) 778 final of 9 December 2021.

¹⁴ *OJ to insert the reference number once adopted.*

¹⁵ Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council (OJ L 272, 18.10.2011, p. 1).

¹⁶ *OJ to insert the reference number once adopted.*

to incentivise more sustainable textile design leading to improved circular design. In order to provide a strong incentive for ecodesign while taking into account the objectives of the internal market and the composition of the textile sector which is primarily composed of SMEs, it is necessary to harmonise criteria for the modulation of extended producer responsibility fees based on the most relevant ecodesign parameters to enable the treatment of textiles in line with the waste hierarchy. The fee modulation according to the ecodesign criteria should be based on the Ecodesign requirements and their measurement methodologies that are adopted pursuant to the Ecodesign for Sustainable Product Regulation for textile products or to other Union law establishing harmonized sustainability criteria and measurement methods for textile products and only where the latter are adopted. It is appropriate to empower the Commission to adopt harmonised rules for the fee modulation to ensure the alignment of the fee modulation criteria with those product requirements.

- (28) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of used and waste textile, textile-related and footwear products they make available on the market for the first time within the territory of a Member State, it is necessary that a register of producers is established and managed by each Member State and that producers should be obliged to register. The registration requirements and format should be harmonised across the Union to the greatest extent possible so as to facilitate registration in particular where producers make textile, textile-related and footwear products available on the market for the first time in different Member States. The information in the register should be accessible to those entities that play a role in the verification of the compliance with the extended producer responsibility obligations and their enforcement.
- (29) Since the textile sector is 99% comprised of **micro**, small and medium sized enterprises, the implementation of an extended producer responsibility scheme for textiles, textile-related and footwear products should aim to reduce as much as possible administrative burdens. Therefore, the fulfilment of the extended producer responsibilities should be exercised collectively by means of producer responsibility organisations taking up the responsibility on their behalf. Producer responsibility organisations should be subject to authorisation by Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility and that they fulfil that responsibility.
- (30) Article 30(1) of Regulation (EU) 2022/2065 of the European Parliament and of the Council¹⁷ obliges certain providers of online platforms allowing consumers to conclude distance contracts with producers offering textile, textile-related and footwear products to consumers located in the Union, prior to allowing a producer to use its services, to obtain certain identification information from that producer and a self-certification by the producer committing to only offer products or services that comply with the applicable rules of Union law. In order to ensure the effective enforcement of the extended producer responsibility obligations, it should be specified that providers of online platforms falling within the scope of Chapter 3, Section 4, of Regulation (EU) 2022/2065 should obtain from those producers information on the registration in the textile producer register that Member State are obliged to set up pursuant to this Directive, as well as the registration number(s) of the producer in that register, and a self-certification by the producer committing itself to only offer textile, textile-related and footwear products to which the extended producer responsibility requirements laid

¹⁷ OJ L 277, 27.10.2022, p. 1.

down by this Directive apply. The rules on enforcement laid down in Chapter IV of Regulation (EU) 2022/2065 apply to providers of such platforms in relation to these traceability rules.

- (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 chains. Used **textiles, textile-related and footwear products separately collected from end users and directly** professionally assessed as fit for re-use by the re-use operators or ~~social enterprises, and~~ social economy entities 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.
- (32) Exports of 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~~ **textile** after the introduction of separate collection by 2025 it is important to strengthen the efforts to combat illegal shipments of waste to third countries disguised as non-waste for the purpose of ensuring high environmental protection. Building on Regulation .../... [P.O. insert the institutions and serial number, and complete the footnote for the Regulation on the Shipment of waste]¹⁸ and in view of the objective to ensure the sustainable management of post-consumer textiles and tackle 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, until they have undergone a sorting operation by a trained sorting for re-use and recycling operator. 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 between 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.
- (33) In order for Member States to achieve the targets set out in this Directive, Member States should revise their food waste prevention programmes to include new measures,

¹⁸ OJ to insert the reference number once adopted.

involving multiple partners from the public and private sectors, with coordinated actions tailored to address specific hotspots as well as attitudes and behaviours that lead to food waste. In the preparation of these programmes, Member States could draw inspiration from the recommendations produced by the Citizens' Panel on Food Waste **and from the exchanges in the EU Platform on Food Losses and Food Waste.**

- (34) Clear accountability and governance of food waste prevention measures are essential to ensure effective coordination of action to drive change and reach the targets set out in this Directive. Due to the shared agenda amongst many authorities and the variety of stakeholders engaged in the fight against food waste in Member States, there is a need for a designated competent authority in charge of overall coordination of actions at national level.
- (35) The granularity of the information on post-consumer municipal textiles management at Union level should be improved to more effectively monitor the re-use of products, including of re-use and preparation for re-use of textiles, including in view of the potential setting of the performance targets in the future. Re-use and preparation for re-use data represent key data flows for the monitoring of the decoupling of waste generation from economic growth and the transition towards a sustainable, inclusive and circular economy. Therefore, these data flows should be managed by the European Environmental Agency.
- (36) ~~The empowerment to adopt delegated acts set out in The Commission adopted Commission Delegated Decision (EU) 2019/1597, in accordance with Article 9(8) of Directive 2008/98/EC, as regards establishes a common methodology and minimum quality requirements for the uniform measurement of levels of food waste, in accordance with Article 9(8) of Directive 2008/98/EC. With a view to improve the quality, reliability and comparability of data reported by Member States on the levels of food waste, the power. The empowerment to adopt delegated acts set out in that provision should continue to be delegated to the Commission. For the purpose of clarity, that empowerment should be moved, with minor adaptations, to a new Article that deals specifically with prevention of food waste generation, ~~with a view to allow the Commission to adopt delegated acts to revise or replace Delegated Decision (EU) 2019/1597, as appropriate.~~~~
- (37) In order to bring the Combined Nomenclature codes listed in Directive 2008/98/EC in line with the codes listed in Annex 1 to Council Regulation (EEC) No 2658/87, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to Annex Ivc to Directive 2008/98/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (38) In order to ensure uniform conditions for the implementation of Directive 2008/98/EC, implementing powers should be conferred on the Commission concerning a harmonised format for registration in the register based on the information requirements set out in Article 22b(4), fee modulation criteria for the application of Article 22c(3), point (a), and a methodology for the calculation and verification of the separate collection rate

referred to in Article 22c(6), point (c). Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁹.

- (39) Directive 2008/98/EC should therefore be amended accordingly.
- (40) Since the objectives of this Directive, namely to improve the environmental sustainability of food and ~~textile~~ waste textile management and to ensure the free movement of used and waste textiles in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective on subsidiarity,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2008/98/EC is amended as follows:

- (1) in Article 2(1), point (a) is replaced by the following:

‘(a) gaseous effluents emitted into the atmosphere and carbon dioxide captured and transported for the purposes of geological storage and geologically stored in accordance with Directive 2009/31/EC of the European Parliament and of the Council*;

* Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).’;

- (2) in Article 3, the following paragraphs are inserted:

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

- (a) are established in a Member State and manufactures textile, textile-related and footwear products listed in Annex Ivc under their own name or trademark, or have them designed or manufactured and supply them for the first time under their own name or trademark within the territory of that Member State;

¹⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.02.2011, p. 13).

(b) are established in a Member State and resell within the territory of that Member State, under their own name or trademark, textile, textile-related and footwear products listed in Annex IVc manufactured by other producers referred to in point (a), on which the name, brand or trademark of the manufacturer does not appear;

(c) are established in a Member State and supply for the first time in that Member State on a professional basis, textile, textile-related and footwear products listed in Annex IVc from another Member State or from a third country; or

(d) ~~are established in a Member State or in a third country and~~ sell ~~in a Member State~~ textile, textile-related and footwear products listed in Annex IVc by means of distance ~~contracts communication~~ directly to end-users, including private households or other than private households, ~~in a Member State, and are established in another Member State or in a third country,~~ in a Member State, and are established in another Member State or in a third country;

4c. ‘making available on the market’ means any supply of a product for distribution or use on the Market of a Member State ~~Union market~~ in the course of a commercial activity, whether in return for payment or free of charge;

4d. ‘producer responsibility organisation’ means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of producers;

4e. ‘online platform’ means online platform as defined in Article 3, point (i), of Regulation (EU) 2022/2065 of the European Parliament and of the Council**;

4f. ‘consumer’ means natural persons who are acting for purposes which are outside their trade, business, craft or profession;

4g. ‘end user’ means end user as defined in Article 3, paragraph 21 of Regulation (EU) 2019/1020 of the European Parliament and of the Council*;**

4h. ‘social economy entity’ means a private law entity providing goods and services including cooperatives, mutual societies, associations, charities included, foundations or social enterprises as defined in Article 2, paragraph 1, point (13), of Regulation (EU) 2021/1057 of the European Parliament and of the Council**, that operate in accordance with the following principles:**

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

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

(iii) democratic or participatory governance.

* Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council

Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304 22.11.2011, p. 64).

** Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (OJ L 277, 27.10.2022, p. 1).’;

***** Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169 25.6.2019, p. 1).**

****** Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013**

- (3) in Article 9, paragraph 1, points (g) and (h), and paragraphs 5, 6 and 8 are deleted.
- (4) the following Article 9a is inserted:

‘Article 9a

Prevention of food waste generation

1. Member States shall take appropriate measures to prevent generation of food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households. Those measures shall include **at least** the following:
 - (a) developing and supporting behavioural change interventions to reduce food waste, and information campaigns to raise awareness about food waste prevention;
 - (b) identifying and addressing inefficiencies in the functioning of the food supply chain and support cooperation amongst all actors, while ensuring a fair distribution of costs and benefits of prevention measures;
 - (c) encouraging food donation and other redistribution for human consumption, prioritising human use over animal feed and the reprocessing into non-food products;
 - (d) supporting training and skills development as well as facilitating access to funding opportunities, in particular for **micro,** small and medium sized enterprises and social economy **entities.**Member States shall ensure that all relevant actors in the supply chain are involved proportionately to their capacity and role in preventing the generation of food waste along the food supply chain, with a specific focus on preventing disproportionate impact on **micro,** small and medium sized enterprises.
2. Member States shall monitor and assess the implementation of their food waste prevention measures, including compliance with the food **waste** reduction targets referred to in paragraph 4, by measuring the levels of food waste on the basis of the methodology established in accordance with paragraph 3.

3. The Commission is empowered to adopt delegated acts in accordance with Article 38a to supplement this Directive as regards laying down a common methodology and minimum quality requirements for the uniform measurement of food waste levels **with a view to improve the quality, reliability and comparability of data reported by Member States on the levels of food waste, including methods in relation to the measurement of the fraction of food waste composed of parts intended to be ingested by humans.**
4. Member States shall take the necessary and appropriate measures to achieve, by 31 December 2030, the following food waste reduction targets at national level:
 - (a) reduce the generation of food waste in processing and manufacturing by **at least** 10 % in comparison to the amount generated in 2020;
 - (b) reduce the generation of food waste per capita, jointly in retail and other distribution of food, in restaurants and food services and in households, by **at least** 30 % in comparison to the amount generated in 2020.

[Placeholder: depending on the outcome of the PPWR trilogues, a correction factor for tourism could be included]

5. Where a Member State can provide data for a reference year prior to 2020, which have been collected using methods comparable to the methodology and minimum quality requirements for the uniform measurement of levels of food waste as set out in the Commission Delegated Decision (EU) 2019/1597, an earlier reference year may be used. The Member State shall notify the Commission and the other Member States of its intention to use an earlier reference year within 18 months of the entry into force of this Directive and shall provide the Commission with the data and measurement methods used to collect them. Where a Member State can provide data for a reference year prior to 2020, which have been collected using methods comparable to the methodology and minimum quality requirements for the uniform measurement of levels of food waste as set out in the Commission Delegated Decision (EU) 2019/1597, an earlier reference year may be used. The Member State shall notify the Commission and the other Member States of its intention to use an earlier reference year within [18 months of the entry into force of this Directive] and shall provide the Commission with the data and measurement methods used to collect them

Where a Member State assesses that the data collected for 2020 is not representative of the generation of food waste within its territory, due to the CoViD-19 pandemic, it may use 2021 as reference year. The Member State shall notify the Commission and the other Member States of its intention to use 2021 as reference year together with the reasons thereof within [18 months of the entry into force of this Directive].

6. When the Commission considers that the data **related to a reference year prior to 2020** do not comply with the conditions set out in paragraph 5, it shall, within 6 months of the receipt of a notification made in accordance with paragraph 5, adopt a decision requesting the Member State to either use 2020 or a year other than that proposed by the Member State as reference year.
7. By 31 December 2027, the Commission shall review the targets to be reached by 2030, laid down in paragraph 4, with a view, if appropriate, to ~~modify and/or~~ extend them to other stages of the food supply chain, and to consider setting new targets beyond 2030

for all stages at the food supply chain, including a target for the fraction of total food waste from households composed of parts of food intended to be ingested by humans. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.’;

(5) in Article 11, paragraph 1, the third sentence is replaced by the following:

‘Subject to Article 10(2) and (3), Member States shall set up separate collection at least for paper, metal, plastic and glass.’;

(5a) in Article 11, paragraph 6 is replaced by the following:

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

(5a) in Article 11, a new paragraph 6a is inserted:

‘6a. [By 31 December 4 January 2028], the Commission shall consider the setting of waste prevention, collection, preparing for reuse and recycling targets for textile-waste textile. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.’

(5b) in Article 11, a new paragraph 6b is inserted:

‘6b. By [31 December 20281 January 2029], the Commission shall carry out a review to assess whether the extended producer responsibility for textile, textile related and footwear products established by this Directive ensures that the fees paid by the producers responsible for payment fully cover the costs arising from the transposition of the requirements set out in this Directive on waste collection and disposal. If on the basis of the review the Commission assesses that the fees are not sufficient in terms of ensuring the financing of the extended producer responsibility schemes, the Commission shall, where appropriate, and no later than two years after the submission of the report, make a legislative proposal to amend Directive 2008/98/EC to ensure full cost recovery in accordance with the polluter pays principle.

(6) in Article 11b, paragraph 1 is replaced by the following:

‘1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Article 9a(4), Article 11(2), points (c), (d), and (e), and Article 11 (3) at the latest three years before each deadline laid down therein.’;

(7) the following Articles 22a to 22d are inserted:

Extended producer responsibility scheme for textiles

1. Member States shall ensure that producers have extended producer responsibility for ~~household textile products, articles of apparel, clothing accessories and footwear, apparel and clothing accessories~~ **textile, textile-related and footwear products as** listed in Annex IVc (~~“textile, textile-related and footwear products”~~) that they make available on the market for the first time within the territory of a Member State, in accordance with Articles 8 and 8a.
2. The Commission is empowered to adopt delegated acts in accordance with Article 38a to amend Annex IVc to this Directive in order to bring the Combined Nomenclature codes listed in Annex IVc to this Directive in line with the codes listed in Annex 1 to Council Regulation (EEC) No 2658/87*.
3. Member States shall define in a clear way the roles and responsibilities of relevant actors involved in the implementation, monitoring and verification of the extended producer responsibility scheme referred to in paragraph 1.
4. Member States shall ensure that the producers of textile, textile-related and footwear products listed in Annex IVc cover **at least** the costs of the following:
 - (a) collection of used and waste textile, textile-related and footwear products listed in Annex IVc and 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 **preparing** ~~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 **preparing** ~~preparation~~ for re-use and for recycling operations in accordance with Article 22d,
 - (3) sorting, **preparing** ~~preparation~~ for re-use, recycling and other recovery operations and disposal of collected loads referred to in point (1), **and the quantities ending up in mixed municipal waste,**
 - (4) collection, transport and treatment ~~referred to in points (1) and (2)~~ of waste generated, **following operations (1), (2) and (3)** by ~~social enterprises,~~ **social economy entities** and other ~~non-waste operators~~ **actors** that are part of the collection system referred to in Article 22c, paragraphs 5 and 11;
 - (b) carrying out compositional survey of collected mixed municipal waste in accordance with Article 22d(6);
 - (c) providing information on sustainable consumption, waste prevention, re-use, preparing for re-use, recycling, other recovery and disposal of textiles, **textile related** and footwear products in accordance with Article 22c(13)(14) and (17);
 - (d) data gathering **in view of article 22c(17) and 22c(11)** and reporting to the competent authorities in accordance with Article 37;
 - (e) support to research and development to improve the sorting and recycling processes, in particular, in view of scaling up fibre-to-fibre recycling, **and to develop durable, reusable and recyclable textiles that do not contain any hazardous substances**, without prejudice to Union state aid rules.

5. Member States shall ensure that producers of textiles, textile-related and footwear products listed in Annex IVc cover the costs referred to in paragraph 4 of this Article in relation to the 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*].
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. **Where necessary, in consideration of the high rates of used textiles imported from other countries, MS may consider the possibility for PROs to receive a contribution from commercial reuse operators to cover the costs referred to in paragraph 4, point (a)(3).**
7. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, Member States shall ensure that providers of online platforms, falling within the scope of Chapter 3, Section 4 of that regulation, allowing ~~consumers~~ **end users** to conclude distance contracts with producers offering textile, textile-related and footwear products listed in Annex IVc to consumers located in the Union obtain the following information from producers;
 - (a) information on the registration in the register of the producers referred to in Article 22b in the Member State where the consumer is located and the registration number(s) of the producer in that register;
 - (b) a self-certification by the producer committing itself to only offering textile, textile-related and footwear products listed in Annex IVc with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 4 of this Article and Article 22c(1) are complied with in the Member State where the consumer is located.
8. Member States shall ensure that the extended producer responsibility schemes laid down in paragraph 1 of this Article are established by [*P.O insert date thirty months after the entry into force of this amending Directive*] in accordance with Articles 8, 8a, 22a to 22d.

Article 22b

Textile, textile-related and footwear producer register

1. Member States shall establish a register of producers of textile, textile-related and footwear products listed in Annex IVc to monitor compliance of those producers with Article 22a and 22c(1).
~~Member States shall ensure~~ By **[P.O insert date thirty months after the entry into force of this amending Directive] the Commission shall establish a website which contains the links to all** ~~that the register provides links to other~~ national registers to facilitate the registration of producers in all Member States.
2. Member States shall ensure that producers are required to register in the register referred to in paragraph 1. To that end, Member States shall require the producers to submit an application for registration in each Member State where they make textile,

textile-related and footwear products listed in Annex IVc available on the market for the first time.

3. Member States shall only allow producers to make available on the market for the first time within their territory textile, textile-related and footwear products listed in Annex IVc where they or, in the case of authorisation, their authorised representatives for the extended producer responsibility, are registered in that Member State.
4. The application for registration shall include the following information:
 - (a) name, trademark and brand names, where available, under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, and name of a single contact point;
 - (b) national identification code of the producer, including its trade register number or equivalent official registration number and Union or national tax identification number;
 - (c) the Combined Nomenclature codes of the textile, textile-related and footwear products listed in Annex IVc that the producer intends to make available on the market for the first time within the territory of that Member State;
 - (d) the name, postal code, place, street and number, country, telephone, web address, e-mail address and national identification code of the producer responsibility organisation, trade register number or an equivalent official registration number, the Union or national tax identification number of the producer responsibility organisation, and the represented producer's mandate;
 - (e) a statement by the producer or, **where applicable, the authorised representative for extended producer responsibility or** the producer responsibility organisation, stating that the information provided is true.
5. Member States shall ensure that the obligations under this Article may, on the producer's behalf, be met by a producer responsibility organisation.

Where a producer has designated a producer responsibility organisation, the obligations under this Article shall be met by that organisation *mutatis mutandis* unless otherwise specified by the Member State.
6. Member States shall ensure that the competent authority:
 - (a) receives applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system the details of which shall be made available on the competent authorities' website;
 - (b) grants registrations and provides a registration number within a maximum period of 12 weeks from the moment that the information laid down in paragraph 4 is provided;
 - (c) may lay down detailed arrangements with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraph 4;
 - (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2.
7. The competent authority may refuse or withdraw the producer's registration where the information outlined in paragraph 4 and related documentary evidence is not provided

or is not sufficient or where the producer no longer meets the requirements set out in paragraph 4, point (d).

8. Member States shall require the producer, or, where applicable, the producer responsibility organisation to notify the competent authority without undue delay of any changes to the information contained in the registration in accordance with paragraph 4, point (d), and of any permanent cessation as regards the making available on the market for the first time within the territory of the Member State of the textile, **textile-related** and footwear products referred to in the registration. A producer shall be excluded from the register of producers if it has ceased to exist.
9. Where the information in the register of producers is not publicly accessible, Member States shall ensure that providers of online platforms allowing **end users** consumers to conclude distance contracts with producers are granted access, free of charge, to the register.
10. **By [P.O insert date 12 months after the entry into force of this amending Directive],** the Commission shall adopt ~~develop~~ implementing acts establishing the harmonised format for registration in the register based on the information requirements set out in paragraph 4 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Article 22c

Producer responsibility organisations for textiles

1. Member States shall ensure that producers of textile, textile-related and footwear products listed in Annex Ivc designate a producer responsibility organisation to fulfil their extended producer responsibility obligations laid down in Article 22a on their behalf.
2. Member States shall require producer responsibility organisations intending to fulfil the extended producer responsibility obligations on behalf of producers in accordance with Articles 8a(3), 22a, 22b, 22d and this Article to obtain an authorisation by a competent authority.
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 weight of the products concerned and, for textile, **textile related and footwear 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~~ **textile, textile related and footwear products** and for ~~the their~~ 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 **textile related and footwear** products, and that ensure the improvement of environmental sustainability and circularity of ~~textiles~~ **these products**;

- (b) 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;
 - (c) ensure equal treatment of producers regardless of their origin or size, without placing disproportionate burden on producers, including **micro**, small and medium sized enterprises of small quantities of textile, textile-related and footwear products listed in Annex IVc.
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~~ **shall** adopt implementing acts laying down the fee modulation criteria for the application of paragraph 3, point (a), 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.
5. Member States shall ensure that the producer responsibility organisations establish a separate collection system for 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 such used and waste textile, textile-related and footwear products to the ~~entities~~**actors** referred to in paragraph 6, point a, and provide for the necessary practical arrangements for collection and transport of such used and waste textile, textile-related and footwear products, including the provision, free of charge, of suitable collection and transport containers, to the ~~connected~~ collection points **established within the producers responsibility organisation's collection system** (~~“connected collection points”~~);
 - (b) ensure the collection, free of charge, of such used and waste textile, textile-related and footwear products collected at the ~~connected~~ collection points **established within the producers responsibility organisation's collection system**, with a frequency that is proportionate to the area covered and the volume of such used and waste textile, **textile-related** and footwear products usually collected through those collection points;
 - (c) ensure the collection, free of charge, of waste generated by ~~social enterprises~~, **and social economy entities and other non-waste** operators from such textile, textile-related and footwear products collected through the ~~connected~~ collection points **established within the producers responsibility organisation's collection system**.

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

6. Member States shall ensure that the collection system referred to in paragraph 5:
- (a) consists of collection points set up by the producer responsibility organisations and waste management operators on their behalf in cooperation with one or more of the following **actors**: ~~social enterprises~~ and **social economy entities**, distributors, public authorities **including municipalities** or third parties carrying

out collection on their behalf of used and waste textile, textile-related and footwear products listed in Annex IVc, and ~~other~~ **operators of** voluntary collection points;

- (b) covers the whole territory of the Member State taking into account population size and density, expected volume of used and waste textile, textile-related and footwear products listed in Annex IVc, accessibility and vicinity to end-users, not being limited to areas where the collection and subsequent management of those products is profitable;
 - (c) maintains a sustained increase of the separate collection rate to achieve technically feasible levels taking into account good practices.
7. Member States shall ensure that the collection rate referred to in paragraph 6, point (c) is calculated in accordance with paragraphs 8 and 9.
8. The separate collection rate referred to in paragraph 6, point (c) shall be calculated as the percentage obtained by dividing the weight of waste textile, textile-related and footwear products listed in Annex IVc collected **separately** in accordance with paragraph 5 in a given calendar year in a ~~the~~ Member State **concerned** by ~~the weight of such waste textile, textile-related and footwear products that is generated and collected as mixed municipal waste~~ **the average weight of such textile, textile-related and footwear products placed on the market in the three preceding years within the territory of that Member State.**
9. **By [30 months after entry into force of this Directive],** ~~the~~ Commission shall adopt ~~develop~~ implementing acts laying down the methodology for the calculation and verification of the separate collection rate referred to in paragraph 6, point (c) of this Article **and of the rates of re-use, preparing for re-use and recycling as referred to in paragraph 17, point (a) of this Article and paragraph 3 of Article 11a.** That implementing act shall be adopted in accordance with the examination procedure referred to in Article 39(2).
10. Member States shall ensure that producer responsibility organisations are not allowed to refuse the participation of social **economy entities enterprises** and other re-use operators in the separate collection system established pursuant to paragraph 5.
11. Without prejudice to paragraph 5, points (a) and (b), and paragraph 6, point (a), Member States shall ensure that ~~social enterprises and~~ **social economy entities** are allowed to maintain and operate their own separate collection points and that they are given equal or preferential treatment in the location of the separate collection points. Member States shall ensure that ~~social enterprises and~~ social economy entities that are part of the **collection system** ~~connected collection points~~ in accordance with paragraph 6, point (a) are not required to hand over collected used and waste textiles, textile-related and footwear products listed in Annex IVc to the producer responsibility organisation.

11a. Member States shall ensure that ~~social enterprises, and~~ social economy entities that operate their own separate collection points in accordance with paragraph 11 submit at least each year to the competent authority the information related to textile, textile-related and footwear products listed in Annex IVc:

(1) on the quantity by weight of separate collection,

(2) on the quantity by weight and rates of re-use, preparing for re-use and recycling, specifying separately the rate of fibre-to-fibre recycling , and

(3) on the quantity by weight and rates of other recovery, disposal and exports.

12. Member States shall ensure that collection points set up in accordance with paragraphs 5, 6 and 11 are not subject to the ~~registration or permit~~ requirements of this Directive. **Member States may provide that the collection points are subject to the registration requirements as part of the permit requirements of its operators.**
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 **including second hand options**, 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 role of consumers in contributing to waste prevention, including any best practices, notably by fostering sustainable consumption patterns **including second hand options** and promoting good care of products while in use;
 - (b) re-use and repair arrangements available for textile and footwear;
 - (c) the role of consumers in contributing to the separate collection of used and waste textile and footwear;
 - (d) 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.
14. Member States shall ensure that the producer responsibility organisation provide the information referred to in paragraph 13 on a regular basis, that the information is up to date and provided by means of:
 - (a) a website or other means of electronic communication;
 - (b) information in public spaces;
 - (c) education programmes and campaigns;
 - (d) signposting in a language, or languages, which can be easily understood by users and consumers.
15. Where, in a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, Member States shall ensure that they cover the whole territory of the Member State of the separate collection system for used and waste textile, textile-related and footwear products listed in Annex IVc. Member States shall entrust the competent authority or appoint an independent third party to oversee that producer responsibility organisations fulfil their obligations in coordinated manner and in accordance with the Union competition rules.
16. Member States shall require that producer responsibility organisations ensure the confidentiality of the data in their possession as regards proprietary information or information directly attributable to individual producers or their authorised representatives.

17. Member States shall ensure that producer responsibility organisations publish on their websites, in addition to the information referred to in Article 8a(3), point (e):
- (a) at least each year, subject to commercial and industrial confidentiality, the information ~~related to textile, textile-related and footwear products listed in Annex IVc, achieved by the producer responsibility organisation, on:~~
- ~~(1) on~~ the amount of products placed on the market,
 - ~~(2) the rate of separate collection of used and waste textile, textile-related and footwear products-listed in Annex IVc, (3) including such unsold consumer products, in accordance with Article 20 of Regulation .../... of the European Parliament and of the Council [P.O. insert the serial number for the Ecodesign for Sustainable Products Regulation when adopted,~~
 - ~~(3) on~~ the rates of re-use, ~~preparing~~ preparation for re-use and recycling, specifying separately the rate of fibre-to-fibre recycling, ~~and~~ achieved by the producer responsibility organisation,
 - ~~(4) and~~ the rates of other recovery, disposal and exports;
- (b) information on the selection procedure for waste management operators selected in accordance with paragraph 18.

Member States shall ensure that producer responsibility organisations also submit the information listed in paragraphs a) and b) to the competent authority, together with the quantity by weight for (2), (3) and (4) and (5) of paragraph (a).

18. Member States shall ensure that producer responsibility organisations provide for non-discriminatory selection procedure, based on transparent award criteria, without placing disproportionate burden on micro, small and medium-sized enterprises to procure waste management services from waste management operators referred to in paragraph 6(a) and from waste management operators to carry out subsequent waste treatment.
19. Member States shall ensure that producer responsibility organisations require the reporting of data from the producers on the textile, textile-related and footwear products listed in Annex IVc made available on the market on an annual basis.

Article 22d

Management of waste textile waste

1. Member States shall ensure set up, by 1 January 2025 and subject to Article 10(2) and (3), the separate collection of textiles for re-use, ~~preparation~~ preparing for re-use and recycling.
2. Member States shall ensure that the collection, loading and unloading, transportation and storage infrastructure and operations and other handling of ~~textile waste~~ textile and used textiles, 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 or the

sorting facility to identify and remove non-target items or materials or substances that are a source of contamination.

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

Used textiles, textile-related and footwear products separately collected from end users and directly professionally assessed as fit for re-use by the re-use operators or social enterprises or social economy entities shall not be considered waste.

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

4. Member States shall ensure that used and waste textiles, textile-related and footwear products that are separately collected, **including** in accordance with Article 22c(5) **and 22c(11)**, are subject to sorting operations to ensure the treatment in line with the waste hierarchy established in Article 4(1).

5. Member States shall ensure that sorting operations of used and waste textile, textile-related and footwear products that are separately collected, **including** in accordance with Article 22c(5) **and 22c(11)**, comply with the following requirements:

- (a) the sorting operation is to generate textiles, **textile-related and footwear products** for re-use and ~~preparation~~ **preparing** for re-use, **prioritizing local re-use**;
- (b) sorting for re-use operations sort textile **textile-related and footwear products 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~~ **preparing** 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 destined for re-use meet the criteria for ceasing to be considered as waste, as referred to in Article 6.

The Commission shall adopt an implementing act develop harmonised Union end-of-waste criteria, in accordance with article 6(2), concerning textiles, textiles related and footwear products, for re-usable textiles and recycled textiles, including on initial sorting that may take taking place at the collection point.

6. By **1 January 2026** ~~31 December 2025~~ and every 5 years thereafter, Member States shall carry out a compositional survey of collected mixed municipal waste to determine the share of waste textiles, **textile related and footwear products** therein. Member States shall ensure that, on the basis of the information obtained, the competent authorities may require the producer responsibility organisations to take corrective action to increase their network of collection points and carry out information campaigns in accordance with Article 22c(13) and (14).

7. Member States shall ensure that, in order to distinguish between used and waste textiles, shipments of used textiles, textile-related and footwear products suspected of being waste 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 listed in Annex IVc and monitored accordingly.
8. Member States shall ensure that shipments arranged on a professional basis of used textiles, textile-related and footwear products comply with the minimum record keeping requirements set out in paragraph 9 and are accompanied by at least the following information:
 - (a) a copy of the invoice and contract relating to the sale or transfer of ownership of the textiles, textile-related and footwear products which states that they are destined for direct re-use and that they are fit for direct re-use;
 - (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 waste as defined by Article 3(1);
 - (d) appropriate protection against damage during transportation, loading and unloading, in particular, through sufficient packaging and appropriate stacking of the load.
9. Member States shall ensure that shipments of used textiles, textile-related and footwear products comply with the following minimum record keeping requirements:
 - (a) the record of the sorting or **preparing** ~~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 **preparing** ~~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~~ **preparing** for re-use.
10. Member States shall ensure that, where the competent authorities in a Member State establish that an intended shipment of used textiles, textile-related and footwear consists of waste, the costs of appropriate analyses, inspections and storage 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.

* Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

** Regulation .../... (OJp.) [P.O. insert the publication details for the Ecodesign for Sustainable Products Regulation]’;

- (8) ~~in Article 29, paragraph 2a is deleted.~~ **In Article 29, paragraph 2a is replaced by the following:**

'2a. Member States shall adopt specific food waste prevention programmes which may be presented as part of their waste prevention programmes.'²

- (9) the following Article 29a is inserted:

'Article 29a

Food waste prevention programmes

1. By [*P.O. insert date of two years after entry into force of this amending Directive*], Member States shall review and adapt their food waste prevention programmes, with a view of attaining the targets provided for in Article 9a(4). Those programmes shall at least contain the measures laid down in Article 9(1) and 9a(1) and, where relevant, the measures listed in Annexes IV and IVa.
2. Each Member State shall designate the competent authorities responsible for the coordination of the food waste ~~reduction~~ **prevention** measures **referred to in Article 9a(1)** implemented in order to reach the target set out in Article 9a(4) and inform accordingly the Commission by [*P.O. insert the date of within three months after the entry into force of this amending Directive*]. The Commission shall subsequently publish that information on the relevant EU website.';

- (10) Article 37 is amended as follows:

- (a) in paragraph 3, the first sub-paragraph is replaced by the following:

'Member States shall report the data concerning the implementation of Article 9(4) and the data referred to in point (a) of Article 22c(17) **and Article 22c(11a)** to the European Environment Agency every year. **For the quantitative monitoring of measures on reuse of textile pursuant Article 1(1) of Implementing Decision 2021/19, Member States shall rely on the data referred to in point (a) of Article 22c(17) and 22c(11a).** ~~Member States shall not be required to report quantitative data on the re-use of textiles pursuant to Article 9(4).~~ Member States shall report the data concerning the implementation of Article 9a(2) to the Commission every year.';

- (b) paragraph 7 is replaced by the following:

'7. The Commission shall adopt implementing acts laying down the format for reporting the data referred to in paragraphs 1, 3, 4 and 5 of this Article. For the purposes of reporting on the implementation of points (a) and (b) of Article 11(2), Member States shall use the format established in Commission Implementing Decision of 18 April 2012 establishing a questionnaire for Member States reports on the implementation of Directive 2008/98/EC of the European Parliament and of the Council on waste. For the purpose of reporting on food waste, the methodology developed under Article 9a(3) shall be taken into account when developing the format for reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2) of this Directive.';

- (11) Article 38 is amended as follows:

- (a) paragraphs 2 and 3 are replaced by the following:

'2. The power to adopt delegated acts referred to in Articles 7(1), 9a(3), 11a(10), 27(1), 27(4), 38(2) and 38(3) shall be conferred on the Commission for a period of five years

from 4 July 2018. The power to adopt delegated acts referred to in Article 22a(2) shall be conferred on the Commission for a period of five years from [PO insert date eighteen months after the entry into force of this amending Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 7(1), 9a(3), 11a(10), 22a(2), 27(1), 27(4), 38(2) and 38(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.’;

(b) paragraph 6 is replaced by the following:

‘6. A delegated act adopted pursuant to Articles 7(1), 9a(3), 11a(10), 22a(2), 27(1), 27(4), 38(2) and 38(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’;

(12) Annex IVc is inserted as set out in the Annex to this Directive.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*P.O. insert date ~~eighteen~~ **twenty four** months after the entry into force of this amending Directive*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament
The President*

*For the Council
The President*

ANNEX IVc

Products that fall within the scope of the extended producer responsibility for certain textile, textile-related and footwear products

Part 1

Household ~~textile~~ textile products, and textile articles of apparel and clothing accessories **from households and from other sources, where such products are similar in nature and composition to those from households**, that fall within the scope of Article 22a

CN code	Description
61 – all listed codes within the chapter	Articles of apparel and clothing accessories, knitted or crocheted
62 – all listed codes within the chapter	Articles of apparel and clothing accessories, not knitted or crocheted
6301	Blankets and travelling rugs (except 6301 10 00)
6302	Bed linen, table linen, toilet linen and kitchen linen
6303	Curtains (including drapes) and interior blinds; curtain or bed valances
6304	Other furnishing articles, excluding those of heading 9404
6309	Worn clothing and other worn articles
6504	Hats and other headgear, plaited or made by assembling strips of any material, whether or not lined or trimmed
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hairnets of any material, whether or not lined or trimmed

Part 2

Footwear, and articles of apparel and clothing accessories **from households and from other sources, where such products are similar in nature and composition to those from households**, whose main composition is not textile within the scope of Article 22a

CN code	Description
4203	Articles of apparel and clothing accessories, of leather or composition leather (excl. footwear and headgear and parts thereof, and goods of chapter 95, e.g. shin guards, fencing masks)
6401	Waterproof footwear with outer soles and uppers of rubber or of plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes
6402	Other footwear with outer soles and uppers of rubber or plastics
6403	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather
6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials
6405	Other footwear