

COOPERATION AGREEMENT ON THE FRAMEWORK FOR EXTENDED PRODUCER RESPONSIBILITY FOR CERTAIN WASTE STREAMS AND FOR LITTER

Having regard to Article 39 of the Constitution;

Having regard to the special law of 8 August 1980 on the reform of the institutions, as amended by the special laws of 8 August 1988 and of 16 July 1993, and in particular Articles 6(1), II, 2°, and Article 92bis(1);

Having regard to the special law of 12 January 1989 on the Brussels institutions, Article 42;

Having regard to the Decree of the Flemish Region of 23 December 2011 on the sustainable management of material cycles and waste, the Walloon Region Decree of 27 June 1996 on waste, and the Ordinance of the Brussels-Capital Region of 14 June 2012 on waste;

Having regard to the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste;

Whereas the objective of this Cooperation Agreement is, inter alia, to regulate the partial transposition and implementation of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives;

Whereas the objective of this Cooperation Agreement is, inter alia, to regulate the partial transposition and implementation of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment;

Whereas the Interregional Packaging Commission, established under the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, is being transformed into an Interregional ERP Commission, which shall consist of two separate decision-making bodies and a Joint Permanent Secretariat; whereas this ERP Interregional Commission shall play a central role in the implementation of the current Cooperation Agreement and in monitoring its compliance;

Whereas the aim of Belgium's waste policy should be to minimise the negative effects of the production and management of waste on human health and the environment; whereas this policy should also aim at reducing the use of natural resources and the practical application of the waste hierarchy resulting from Directive 2008/98/EC;

Whereas the introduction of the concept of 'extended responsibility for producers' in Directive 2008/98/EC is one of the means to help ensure that the efficient use of raw materials throughout the life cycle of the goods, including repair, reuse, dismantling and recycling, is fully taken into account and facilitated in the design and production of goods, without jeopardising the free movement of goods in the internal market;

Whereas a national framework is necessary for the implementation of the Extended Producer Responsibility, as products are placed on the Belgian market and there are no regional sub-markets; whereas the achievement of collection and processing objectives, expressed in relation to the quantity placed on the market, can only be controlled and enforced at national level; Whereas it is necessary to regularly review regulations in line with technological developments, as well as evolutions in societal needs and policy-based insights; whereas, therefore, a mechanism is needed to adapt national regulations smoothly; whereas, therefore, it has been chosen to implement cooperation agreements for each waste stream, which impose national targets, while respecting European legislation;

Whereas the Regions can establish the aforementioned national framework by means of a Cooperation Agreement with statutory force;

Whereas this Cooperation Agreement, in accordance with the principle 'the polluter pays', as well as the possibility provided for in Directive 2008/98/EC, aims to fully charge the costs of waste management to the producers producing the listed waste streams; whereas these costs should be calculated in such a way as to reflect the total and real environmental costs of the production and management of waste;

Whereas the management bodies which assume the extended producer responsibility of the producers of waste streams listed in Book II of this Cooperation Agreement which are affiliated to them bear only part of these costs today, leaving part of the costs to the community;

Whereas progressive insight has shown that, contrary to the prevailing belief at the time of the conclusion of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, the costs associated with packaging waste of industrial origin are not only partly borne by companies other than those responsible for packaging, but the regional policy on prevention, awareness and control means that these costs are also partly borne by the community; Considering the fact that the principles of extended producer responsibility and 'the polluter pays', as set out in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing a number of Directives, mean that these residual costs should be allocated correctly to other companies and the community, i.e. to those responsible for packaging themselves; whereas these remaining costs are compensated by the introduction of a financial obligation to contribute to the policies of the regions in respect of packaging waste of industrial origin;

Whereas streams with a net positive value, i.e. streams for which the total cost of the management body to meet the targets imposed are lower than the revenues generated by these streams for the management body, still cause other community costs, such as prevention and communication to citizens;

Whereas the current Cooperation Agreement also intends to charge this part of the costs to producers responsible for waste streams, by means of the payment by the management bodies of a levy expressed as an amount per inhabitant per year; that the amount of the amounts per waste stream was derived from, on the one hand, the levy of EUR 0.50 per inhabitant and per year provided for in Article 13(1), 12°, of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, which pursues the same objective and, on the other hand, the operational costs for the management of the waste stream, calculated on the basis of the balance sheet item 60/61 ('purchasing from third parties') in the most recent annual accounts of each management body, compared with the same costs for the approved household packaging waste body under the aforementioned Cooperation Agreement of 4 November 2008; whereas the same obligation is foreseen for the approved industrial packaging waste body under that Cooperation Agreement, given that the same conditions occur there;

Whereas the amounts of the levy are indexed annually;

Whereas the charges for each waste stream covered by this Cooperation Agreement shall focus on general prevention measures or prevention measures specific to that particular waste stream;

Whereas a management body does not yet exist for all waste streams and therefore a zero rate is currently applied to the waste streams concerned; whereas the intention is to review this Cooperation Agreement on a regular basis in order to adapt it to reality;

Whereas producers who have not transferred their extended producer responsibility to a management body bear these costs themselves by drawing up an individual management plan, laying down detailed rules for ensuring that these producers contribute to the policy to the same extent as producers who are members of a management body; whereas the same obligation also applies to those responsible

for packaging who individually comply with the take-back obligation under the Cooperation Agreement of 4 November 2008, both as regards packaging waste of household origin and packaging waste of industrial origin, since those responsible for packaging are in the same situation;

Whereas, in a number of cases, an additional levy shall be imposed on a management body; whereas this shall apply in cases where the management body does not meet the targets imposed; whereas the current text does not opt for penal sanctions or administrative fines, but rather charges that benefit the policies of the Regions; whereas failure to meet the objectives causes additional costs for the community in waste management;

Whereas an additional levy shall also apply in cases where the management body has too high reserves, as financial and budgetary efficiency should be expected from the management body and these over-reservations represent an unjustified burden on consumers; whereas the additional levy should encourage management bodies to make every effort to fulfil the tasks and objectives imposed on them as cost-efficiently as possible;

Whereas the standard for the permissible amount of reserves depends on the operating costs of the management body for the waste stream concerned; whereas this means the costs included in the financial statements under the heading 'operational costs (code 60/66A)', with the exception of the additions to the provisions (code 635): that it is therefore the sum of codes 60, 61, 62, 630, 631, 64 and 66A;

Whereas, on the one hand, it is necessary to avoid the imposition of unlawful accounting commissions, in order to serve as de facto reserves; whereas, on the other hand, management bodies are also granted autonomy to comply with their EPR obligations and to pursue their own financial policies as prudent and reasonable persons; whereas commissions are only possible within the strict framework of accounting law and that, in order to verify that this is the case, an objective justification of the accounting necessity of commissions is necessary on the basis of studies; whereas it should be noted that the approval of the account by the own auditor as such is not sufficient reason to accept that the commissions are justified; whereas a fair procedure is foreseen to have the audit carried out by its own auditor checked and supplemented by an independent audit, in accordance with accounting law and ethical rules, as determined by the Institute of Business Reviewers; whereas this procedure has demonstrated its proper functioning in the framework of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste for the recognised bodies Fost Plus and Valipac;

Whereas the limitation of reserves and commissions is also necessary in order to avoid market disturbance between the current management bodies and future management bodies for the same flow and avoid problems with the return of commissions in the case of cessation of producer membership;

Whereas it is justified, when assessing whether a producer contributes sufficiently to the policies of the Regions, to show particular flexibility for producers who import products exclusively for their own use or manage their waste in closed circuits, because these producers contribute to a much lesser extent to the waste problem, to which the regional policy must remedy;

Whereas, by providing that a management body has a task in the public interest, to the extent to which the Extended Producer Responsibility entrusted to it relates to household waste, the Regions have no intention of making that management body subject to public procurement legislation; whereas it is for the federal legislator only to determine the scope of public procurement legislation;

Whereas it is justified not to impose an additional levy on a producer who is not affiliated to a management body and who is unable to achieve its collection or processing objectives, as is the case with a management body which proves unable to achieve those objectives, since in that case the producer who is not affiliated to a management body shall be obliged to transfer its extended producer responsibility to a management body;

Whereas approvals to be granted by the EPR Interregional Commission are provided for for the management bodies; whereas these approvals relate only to the provisions of the present Cooperation Agreement and do not concern matters reserved to the Regions; whereas the approvals granted are therefore complementary to the regional regulations;

Whereas management bodies are subject to fair obligations in the public interest; whereas, in that context, management bodies are also subject to limited reporting and approval obligations under the Interregional ERP Commission;

Whereas the sole purpose of management bodies should be to implement the extended producer responsibility, but it is sometimes necessary to extend this statutory objective to a limited extent, in order to enable the management body to achieve the results in a cost-efficient manner; however, this extension can only be accepted if there are sufficient guarantees that there is no risk of distortion of competition; whereas the consultation of the Belgian Competition Authority is required to do so;

Whereas national legislation should be without prejudice to the competence of the Regions with regard to waste policy to lay down the operational framework for the implementation of extended producer responsibility; whereas, therefore, the interregional framework is limited to what can only be regulated at national level;

Whereas different types of obligations are imposed on producers of various products in order to maximise their environmental hygiene collection and processing; whereas there are nevertheless a number of products for which, due to the specific nature of the product, the imposition of certain measures is particularly difficult; whereas, nevertheless, the necessary measures should be taken to avoid waste and litter being left unmanaged;

Whereas litter is a major social and environmental problem and imposes a major financial burden on the community for its disposal, and whereas it is appropriate for producers of products that contribute significantly to littering to finance the costs of preventing and clearing litter;

Whereas producers have the choice to individually fulfil their obligations, to unite into a collective body, or to entrust the task of the collective body to an approved body under the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste;

Whereas the financial contribution of producers to the costs of prevention and disposal of litter should cover the real and full costs; whereas, however, this financial contribution should not exceed the costs necessary to provide the necessary services in a cost-efficient manner; whereas the costs are limited to costs for work carried out by or on behalf of public authorities and that the regional administrations determine them in a transparent manner, in line with European law;

Whereas the same obligations are imposed for household packaging waste, through amendments to the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, as for the other waste streams which are significantly responsible for the generation of litter; whereas, however, through the introduction of a deposit or equivalent system, the share of household packaging in litter can be expected to decrease, making it necessary to provide for a progressive reduction in the levy on household packaging; whereas, in addition, it is appropriate to limit the levy on household packaging at a first stage to those packages targeted by the SUP Directive, as well as canned household beverage packaging, due to their significant presence in litter and the current absence of a deposit system or equivalent system;

Whereas the charges for each of these waste streams were determined on the basis of the actual costs estimated by each of the Regions for the efficient management of litter through complete studies carried out on the basis of the assessment of total and real costs, which were adjusted in a transparent and proportionate manner in accordance with the principles of Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment, divided between the waste

streams, based on the latest fraction counts of the Regions; whereas the calculation method was developed in such a way that the costs of the prevention, disposal, transport and handling of litter, as well as the costs of monitoring and penalising the policy set, could be determined proportionately per product group; whereas, however, conditions in the regions are not fully comparable; whereas, moreover, an unambiguous rule for the calculation of the levy is imposed;

Whereas the same obligations are imposed on producers and those responsible for packaging who wish to meet their obligations individually; whereas, to that end, producers, for streams other than packaging, who wish to meet their obligations individually, are subject to an 'individual litter management plan', while those responsible for packaging who wish to meet their obligations individually are made subject to the same obligations under the Cooperation Agreement of 4 November 2008;

Whereas the aim is to regularly evaluate the financial contributions on the basis of group counts and an inventory of costs, with the aim of applying a uniform method of calculation of costs; that this Cooperation Agreement shall be amended if it appears that the financial contributions no longer correspond to reality;

Whereas the levy should not have a disproportionately high impact compared to the economic weight of a sector; whereas, according to the European Waste Framework Directive (2008/98/EC), public authorities must take economic feasibility into account when applying extended producer responsibility;

Whereas chewing gum represents a significant part of the litter and does not fall within the scope of the SUP Directive, yet is a real problem in terms of public cleanliness and cleaning, and therefore it is appropriate to set up prevention and clean-up actions and campaigns;

Whereas the entry into force of the charges stems from the provisions of the SUP Directive;

Whereas it is necessary to take joint measures in the Brussels-Capital Region, the Flemish Region and the Walloon Region on the prevention of litter and the financing of litter costs, without disrupting the Belgian Economic Union and Monetary Unit;

Whereas only a Cooperation Agreement with statutory force provides a sufficient guarantee for a uniform arrangement throughout the territory of Belgium,

BOOK I – COMMON PROVISIONS

Section 1 – General provisions

Article 1

(1). This Cooperation Agreement is a partial transposition of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives and Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment.

(2). This Cooperation Agreement has statutory force and is directly applicable in the Brussels-Capital Region, the Flemish Region and the Walloon Region.

Unless otherwise provided, this Cooperation Agreement shall be without prejudice to the applicable regional legislation on the prevention and management of waste, and to the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste.

This Cooperation Agreement shall be without prejudice to the competences of municipalities or agglomerations with regard to public health and safety on public roads. This Cooperation Agreement shall apply to the management of waste falling under the Extended Producer Responsibility, without prejudice to the possibility for the municipalities and the Brussels agglomeration to adopt, within the framework of their powers, additional regulations concerning the collection of such waste.

Article 2

For the application of this Cooperation Agreement, the following terms and definitions apply:

1° 'Electrical and electronic equipment' or 'EEE' means: device dependent on electrical currents or electromagnetic fields for proper operation and device for the generation, transfer and measurement of such currents and fields and intended for use at a voltage not exceeding 1 000 volts for alternating current and 1 500 volts at DC;

2° 'Batteries and accumulators: source of electrical energy obtained by direct conversion of chemical energy, consisting of one or more primary (non-rechargeable) battery cells or one or more secondary (rechargeable) battery cells;

3° 'Vehicle' means: vehicles in category M1 or N1 as defined in Regulation (EU) 2018/858, as well as three-wheel motor vehicles as defined in Regulation (EU) 168/2013, with the exception of tricycles, regardless of how the vehicle was maintained or repaired during operation and whether it was equipped with components supplied by the producer or with other components fitted as replacement or built-in components in accordance with the relevant Community provisions or internal provisions;

4° 'Producer' within the meaning of Book II of the current Cooperation Agreement:

- From EEE: any natural or legal person who, irrespective of the marketing technique, including distance selling in accordance with the provisions of Article I.8, 15°, of the Code of Economic Law:
 - a) is established in Belgian territory and manufactures EEE under its own name or trade mark, or has EEE designed or manufactured that it trades under its name or trade mark on Belgian territory,
 - b) is established in Belgium, and resells equipment produced by other suppliers under its own name or trademark; the reseller shall not be regarded as a 'producer' if the manufacturer's mark as provided for in point (a) is visible on the device,
 - c) is established in Belgium and places EEE on the market from a third country, or
 - d) is established outside the Belgian territory and through distance selling within the meaning of Article I.8, 15°, of the Code of Economic Law, EEE sells directly or by using an online marketplace to private households or to users other than private households in Belgium.Any party exclusively providing financing on the basis of or under a financing agreement shall not be considered a 'producer' unless it also acts as a producer within the meaning of points (a) to (d);
- Of batteries and accumulators: any natural or legal person who, irrespective of the selling technique used, including the distance selling technique in accordance with the provisions of Article I.8, 15°, of the Code of Economic Law, places on the market batteries or accumulators, including those incorporated into appliances or vehicles, for the first time on the Belgian territory, or imports them professionally for their own use;
- Of vehicles: the vehicle manufacturer or professional importer of a vehicle in Belgium;

- Of other products: any natural or legal person who, irrespective of the selling technique used, including distance selling in accordance with Article I.8, 15°, of the Code of Economic Law:
 - a) is established in Belgium and manufactures a product under its own name or trade mark, or has a product designed or manufactured which it markets in the territory under its name or trade mark;
 - b) is established in Belgium and resells a product that was produced by other suppliers under its own name or brand; the retailer is not considered to be a producer of the product if the manufacturer's brand mentioned in point (a) is visible on the product,
 - c) is established on Belgian territory, and professionally markets a product originating in a third country,
 - d) is established on Belgian territory, and manufactures or imports a product which it uses professionally in the territory for its own use; or
 - e) is established outside Belgian territory, and sells a product through distance selling, within the meaning of Article I.8, 15° of the Code of Economic Law, directly or through the use of an online marketplace, to private households or users other than private households in the territory.

Any party exclusively providing financing on the basis of or under a financing agreement shall not be considered a 'producer' unless it also acts as a producer as referred to in points (a) to (e);

5° 'Extended Producer Responsibility': a set of measures adopted to ensure that producers of products bear financial or financial and organisational responsibility for managing the waste phase of a product's life cycle;

6° 'ERP Decision-Making Body': the Regional Consultation Platform, formerly referred to as the 'Interregional Platform for Extended Producer Responsibilities' or 'IPEPR', which is a division of the Interregional Commission's decision-making body for the ERP and which is entrusted with certain tasks of governance, control, approval and advice under this Cooperation Agreement;

7° 'Management body': the non-profit-making association established and financed by the producers, which assumes the extended producer responsibility laid down in Book II of this Cooperation Agreement, of its affiliated producers;

8° 'Interregional Commission for the ERP': the institution referred to in Article 23 of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste;

9° 'Reserve': a portion of an enterprise's own funds, above the nominal value of the paid-up and called-up capital, which serves to preserve part of the profits for future use;

10° 'Commission': an application of accounting law which obliges undertakings to anticipate events that could have a negative impact on their assets; the commission can only be used to cover the future costs for which it was provided;

11° 'Levy': the lump sum referred to in Article 8, 13, 14 or 27 of the present Cooperation Agreement;

12° 'Oil': all types of mineral or synthetic lubricating oil or industrial oil, such as combustion engine oil and gearbox oil, lubricating oil, turbine oil and hydraulic oils;

13° 'Tyre': any full or pneumatic tyre made of rubber and any other materials, including bandages, excluding bicycle tyres;

14° 'Online marketplace': a digital platform, a portal or any other similar electronic means, application or service, which enables a seller to conclude a distance contract within the meaning of Article I.8, 15° of the Code of Economic Law with users of the online marketplace;

15° 'Administrator of an online marketplace': any natural or legal person who, whether for consideration or not, organises or manages an online marketplace;

16° 'Mattress': product intended for sleeping and resting, suitable for human use for a long period of time, consisting of a strong cover filled with core materials, and which can be placed on an existing supporting bed structure, including topper; A topper is a thin mattress that is placed on top of the normal mattress;

17° 'Solar panel': An electronic device that is designed to generate electricity from (solar) light for public, commercial, industrial, national and residential applications. this definition does not include the equipment with integrated PV cells, which have the function of generating electricity necessary for that equipment to operate;

18° 'Disposable nappy': a nappy intended for single use or part thereof;

19° 'Textiles': a collective name of the product group consisting of clothing, footwear, linen and products made of natural or synthetic fibres; the textile fraction contains both reusable and non-reusable textiles;

20° 'Furniture': all movable items, of which all external dimensions are greater than or equal to 40 centimetres or the volume of which is greater than or equal to 60 cubic decimetres, intended for the use or decoration of premises or their exteriors, excluding mattresses;

21° 'Regional administration': as regards the Flemish Region, the Public Flemish Waste Company; as regards the Walloon Region, the SPW-ARNE (Service public de Wallonie Agriculture, Ressources naturelles et Environnement); as regards the Brussels-Capital Region, Environnement Brussels/Brussels Leefmilieu;

22° 'Placing on the market': the first making available on the Belgian market of a product;

23° 'Making available on the market': the supply of a product for distribution, consumption or use on the Belgian market in the course of a commercial activity, whether in return for payment or free of charge; this definition may be further specified in the executive cooperation agreement referred to in Article 7(1);

24° 'Producer' within the meaning of Book III of the current Cooperation Agreement:

- a. Except for packaging, any natural or legal person established in Belgian territory who professionally manufactures, fills, sells or imports products, irrespective of the marketing technique used, including distance contracts as defined in Article 2(7) of Directive 2011/83/EU of the European Parliament and of the Council (21), and places products or stuffed products on the Belgian territory; or
- b. Except for packaging, any natural or legal person established in another country who professionally sells products or filled products in Belgian territory directly to private households or to users other than private households, through distance contracts as defined in Article 2(7) of Directive 2011/83/EU;

25° 'Tobacco products': products which can be consumed and which, if only partially, consist of tobacco, whether or not genetically modified, as well as filters sold for use in combination with tobacco products;

26° 'Chewing gum': flavoured gum, chewed and not intended to be swallowed;

27° 'Moist wipes': pre-moistened wipes for personal hygiene or household use;

28° 'Balloons': a non-porous sleeve of light material intended to be inflated with air or gas, excluding balloons for industrial or other professional applications not supplied to consumers;

29° ‘ Collective body’: the non-profit association, established and financed by producers, which assumes the extended producer responsibility imposed in Book III of this Cooperation Agreement of its affiliated producers;

30° ‘ Litter’: any piece of small waste left, discarded or managed:

- a) outside the containers or recipients installed or designated for that purpose by a local authority or other body competent for cleaning the public domain, or
- b) without complying with the provisions of the regulations.

Article 3

This Cooperation Agreement has the following objectives:

- 1° the establishment of a national framework for the implementation of the Extended Producer Responsibility;
- 2° preventing and reducing litter and the harm that it causes;
- 3° making producers financially responsible for the litter costs arising from the products placed on the market by them;
- 4° raising awareness of the population with the aim of preventing litter.

Section 2 – The ERP Decision-Making Body

Article 4

(1). Article 2, 24°, of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste is replaced with the following text:

‘24° “Interregional Commission for the ERP”: the Commission, formerly referred to as “Interregional Packaging Commission”, referred to in Article 23 of this Cooperation Agreement and entrusted with certain tasks of governance, supervision, approval and advice in the context of this Agreement;’

(2). All entries in the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste of the designation ‘*Interregional Packaging Commission*’ with the exception of the entries in Articles 2, 24°, 23(1), and 24, the new name shall be amended ‘*Interregional Commission for the ERP*’.

(3). Article 23(1) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste is replaced with the following text:

‘(1). The Regions maintain the existence of the Interregional Packaging Commission, established by the Cooperation Agreement of 30 May 1996 on the prevention and management of packaging waste, as a joint body referred to in Article 92a of the Special Law of 8 August 1980 on the reform of the institutions, the name of which is changed to “Interregional Commission for the ERP”. It has legal personality.

The Interregional Commission for the ERP is composed of a Decision-Making Body and a Permanent Secretariat, whose task is to assist the decision-making body.

The Decision-Making Body is composed of two sections with nine members each. Each regional government shall designate, for both sections, and withdraw the designation of, three effective members and three alternates. Members can be appointed in both sections or only one section.

The first section of the Decision-Making body, which is also referred to as “Decision-Making Body on Packaging”, is responsible for the prevention and management of packaging waste, as further described in this Cooperation Agreement.

The second section of the decision-making Body is the “ERP Decision-Making Body”. The tasks and powers of this “ERP Decision-Making Body” are governed by the Cooperation Agreement on the framework for extended producer responsibility for certain waste streams and for litter.

The Permanent Secretariat shall be composed of officials and members of staff made available by each Regional Government to the Interregional Commission for the ERP for the performance of the administrative and technical tasks assigned to it.

Instead of making staff available, the Region may choose to allocate specific budgets to the Interregional Commission for the ERP for the recruitment of its own staff per budgetary year.

The specific budgets allocated also cover the running costs of the social secretariat to be entrusted by the Interregional Commission for the ERP with the practical aspects of human resources management.’.

Article 5

Article 24 of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste is replaced with the following text:

‘The two sections of the Interregional Commission’s decision-making body for the ERP meet at least 10 times a year, as well as at the request of a member. Each division shall be valid only if the three regions are represented.

The members of each section of the Interregional Commission’s decision-making body for the ERP shall appoint a new president in their midst each year and with effect from 5 March, respecting a rotating role between the regions. The secretariat of both sections of the decision-making body shall be ensured by the Permanent Secretariat.

The internal rules of procedure of the Interregional Commission for the ERP, which lays down the rules of internal functioning of the Interregional Commission for the ERP, govern practical cooperation between the two sections and may provide for joint meetings of the two sections.

Any opinion, proposal or decision of the Interregional Commission for the ERP must be taken by consensus, provided that at least one representative of each Region is present.’.

Article 6

(1). In Article 26(1), 12°, of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, the full stop is replaced by a semicolon at the end.

(2). In Article 26(1) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, a point 13° is added with the following text:

‘13°, within its second section, performs the tasks set out in the Cooperation Agreement on the framework for Extended Producer Responsibility for certain waste streams and for litter.’.

(3). Article 26(5) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste is deleted. Article 26(6) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste is renumbered to 26(5).

BOOK II – PROVISIONS ON THE INTERREGIONAL FRAMEWORK FOR THE EXTENDED PRODUCER RESPONSIBILITY OF CERTAIN WASTE STREAMS

Section 1. Extended producer responsibility

Article 7

(1). Producers have an Extended Producer Responsibility for the following waste streams:

EEE, excluding solar panels
Solar panels
Batteries
Vehicles
Oil
Tyres
Mattresses
Furniture
Textiles
Disposable nappies

For each of these waste streams, producers shall be subject to a collection target and/or treatment target, including prevention, reuse, repair and preparation for re-use targets, where appropriate, by means of an Executive Cooperation Agreement. In this context, regional governments may also impose objectives for the support and development of re-use activities carried out by

companies with a social purpose established in their territory. The Executive Cooperation Agreement shall determine when the objectives and obligations set out in Articles 9 and 10 enter into force, and shall specify the indicators for the evaluation of the systems put in place.

The Regions may, at any time, impose additional objectives and obligations separately, while ensuring that no conflicting obligations are imposed.

Producers can unite for each stream into one or more management bodies, who assume the Extended Producer Responsibility for their affiliated producers.

If several management bodies are set up for the same stream, the management bodies shall have an obligation to set up a coordination organism the task of determining, inter alia, the market share of each management body.

(2). If a producer has entrusted the performance of their obligations under Book II of this Cooperation Agreement to a management body, an accession agreement shall be concluded between the producer and the management body.

The accession agreement shall ensure that there is no discrimination or distortion of competition between producers, and specify the dissolution procedures and exclusion mechanisms. It contains the necessary provisions to ensure the financing of the implementation of the Extended Producer Responsibility for the products placed on the market during the duration of the accession agreement.

The type-accession agreement shall be subjected beforehand to the opinion of the ERP Decision-Making Body. The ERP Decision-Making Body has three months to give an opinion. Within this period, the ERP Decision-Making Body may request additional information, so that the period of three months starts to run again from the receipt of this information.

(3). For the waste streams specified in Article 8, the Extended Producer Responsibility also imposes a financial obligation on the management bodies to contribute to the policies of the Regions.

Article 8

(1). Waste streams 'EEE, excluding solar panels', 'Solar panels', 'Batteries and accumulators', 'Vehicles', 'Oil', 'Tyres', 'Mattresses', 'Furnitures', 'Textile' and 'Disposable nappies' shall be subject to a financial obligation in the form of a levy for the management bodies; it should contribute to the financing of the Region's policy on the prevention and management of the waste concerned.

The levy is expressed as an amount per capita per year, the number of inhabitants being determined by the most recent population statistics of the General Directorate for Statistics and Economic Information of the Federal Public Service Economy, SMEs, Self-Employed and Energy, available on 1 January of the same year.

Where there are several management bodies for the same stream, the levy shall be borne by each management body depending on its market share calculated by the coordination body referred to in Article 7(1) on the basis of the units placed on the market by the members of each management body.

The levy is due from the tax year 2024, for the 2023 declaration year.

The levy shall amount to:

EEE, excluding solar panels	EUR 0.148 /resident
Solar panels	EUR 0.001 /resident
Batteries	EUR 0.057 /resident
Vehicles	EUR 0.003 /resident
Oil	EUR 0.011 /resident
Tyres	EUR 0.082 /resident
Mattresses	EUR 0.019 /resident
Furniture	EUR 0 /resident
Textiles	EUR 0 /resident
Disposable nappies	EUR 0 /resident

The amounts per capita shall be adjusted annually to the consumer price index, with the base index being the average of consumer price indices from January to December 2008, based on 2004.

The indexed amounts shall be rounded to the higher or lower tenth eurocents, depending on whether or not the figure of the hundredth eurocent reaches 5.

- (2). The Region's policy on the prevention and management of the waste concerned may include:
- the prevention and re-use of the waste concerned;
 - the fight against the presence of the waste concerned in litter, illegal and residual waste;
 - research and development to improve the quality of the products concerned and in particular their recyclability;
 - the improvement of the results and/or the quality of the selective collections of the waste concerned;
 - the non-selective collection and treatment of the waste concerned;
 - the reimbursement of staff responsible for monitoring, implementing and monitoring the above mentioned actions;
 - the reporting and evaluation of this waste;
 - promoting local and high-quality processing in the context of the circular economy.

The global amounts of the levy shall be distributed between the Regions according to the latest population statistics of the General Directorate for Statistics and Economic Information of the FPS Economy, SMEs, Self Employed and Energy, available on 1 January of the year in which the declaration period falls.

Each Region shall determine, after consulting the management bodies concerned, the specific uses of the charges they have received and shall provide the management bodies concerned with an annual overview of the actual uses.

(3). The levy shall be paid annually by 31 January of the year following the declaration year by deposit to the account numbers communicated by each Region.

Article 9

(1). The management body designated under Book II of this Cooperation Agreement to give effect to the Extended Producer Responsibility for the producers affiliated to it must comply with the following conditions:

1° be established as an association without a profitable purpose in accordance with the provisions of the Code of Companies and Associations of 23 March 2019;

2° have the sole statutory purpose of executing the Extended Producer Responsibility on behalf of the members;

3° the administrators or the persons who can bind the association must possess their civil and political rights;

4 ° the administrators or the persons who can bind the association may not have been convicted of an infringement of the environmental legislation of the Regions or of a Member State of the European Union during the last five years;

5° possess the necessary resources to implement the extended producer responsibility.

(2). If a management body carries out, in additional order and by way of derogation from (1)2 °, activities of a commercial nature or that fall outside the strict execution of the Extended Producer Responsibility, it must respect competition law when carrying out these activities.

A management body can only carry out these activities on its own, to the extent that it does not abuse its potential dominant position on the market. For this purpose, the management body must submit a clear description of these activities to the ERP Decision-Making Body and justify its decision by carrying out a market study and forwarding it to the ERP Decision-Making Body. The management body shall also be able to consult the Belgian Competition Authority and provide its advice to the ERP Decision-Making Body.

The provisions of this paragraph shall also apply if activities are carried out by the management body through the establishment or participation in a separate company.

The Governments may consult the Regional Advisory Councils responsible for these activities.

The Governments may consult the Belgian Competition Authority on these activities. The ERP Decision-Making Body can also consult the Belgian Competition Authority and must inform the managing body.

The management body must take into account any advice given by the competent regional advisory councils and any advice from the Belgian Competition Authority, if they are relevant, and inform the ERP Decision-Making Body of how this shall be taken into account.

Annually, the management body shall provide the ERP Decision-Making Body with a global overview of its activities, including the activities carried out under this paragraph; this also provides an overview of the situation of this activity on the global market.

(3). The management body shall be obliged to:

- 1° manage waste, encouraging local employment and the principle of proximity;
- 2° provide the public with information on the possibilities of prevention, restoration and re-use;
- 3° take appropriate measures to encourage the design of products in such a way as to reduce the environmental impact and the generation of waste both in the manufacture and subsequent use of the products, and to ensure that the recovery and disposal of products which have become waste are carried out in accordance with the provisions of Directive 2008/98/EC, including, inter alia, encouraging the development, manufacture and placing on the market of products suitable for multiple use, technically sustainable and, once waste becomes waste, suitable for appropriate and safe recovery and environmentally sound disposal;
- 4° promote prevention, restoration and re-use among its members, through targeted communication to members and by setting up pilot projects on prevention and reuse;
- 5° monitor the prevention, restoration and re-use by its members;
- 6° organise an efficient repair network and a high-performance collection of all end-of-life products in a way that promotes longevity and reuse and enables the objectives of prevention, collection and processing to be achieved;
- 7° conclude a uniform accession agreement with any producer who so requests;
- 8° conclude an insurance contract to cover the damage that may result from the intended activities;
- 9° collect the contribution of the members, in a non-discriminatory manner, in order to cover the real and full costs of the obligations borne by it in accordance with the present Cooperation Agreement and to differentiate, where possible, on the basis of harmonised criteria and in accordance with European law, for individual products or groups of similar products, in particular by taking into account durability, reparability, reusability and recyclability, the presence of recycled material and the presence of hazardous substances, taking into account the whole life cycle;
- 10° verify and control the treatment of the waste, the environmental and social conditions in which the processing takes place and guarantee qualitative control carried out by an independent control body of this data, at the expense of the management body;
- 11° report on the results achieved with maximum transparency to the regional authorities and to the ERP Decision-Making Body, ensuring the confidentiality of confidential business data, and supporting the results with an independent audit or certification;
- 12° cover the entire Belgian territory in a homogeneous manner;
- 13° provide for the achievement of the collection and processing objectives in a homogeneous manner every year mentioned the Executive Cooperation Agreement in Article 7(1);
- 14° privilege short processing chains for recycling, where recycling takes place exclusively within the European Union and at most in Belgium;

- 15° ensure the free take-back of waste produced in the event of natural disasters or emergencies recognised as such by the authorities;
- 16° provide a financial security corresponding to the estimated cost of bearing the Extended Producer Responsibility for a period of 9 months.

(4). The exercise of the Extended Producer Responsibility by the management body is further framed by the following principles:

- the activities are managed as a prudent and reasonable person would do so and in view of the objectives of the current Cooperation Agreement, by optimising the performance and efficiency of its activities and by adjusting the operating costs accordingly, in order to achieve the objectives set to it;
- the planning, management and evaluation of activities should be documented and should be subject to access to information as framed by the current Cooperation Agreement;
- where different actors are required to cooperate for the management of activities, this management shall be framed by balanced agreements between the Parties;
- regional administrations are invited to the policy committee of studies commissioned by the management body and relevant to the policy;
- the meetings of the Governing Council and the General Assembly of the Management Body shall be open to an observer post for the regional administrations; observers shall have the same information as the other participants in the meeting;
- the management body shall implement quality-control procedures through one or more impartial and independent external third parties that evaluate in particular the following:
 - o the quality of the quantitative data;
 - o the objectivity and impartiality of the studies being carried out;
 - o compliance with the elements of the Extended Producer Responsibility;
 - o the financial data;and, where appropriate, formulate proposals on how to improve it;
- the management body implements a policy for managing potential conflicts of interest; this policy shall be elaborated by the existing management bodies developed within six months of the entry into force of the objectives of the current Cooperation Agreement and shall be developed by new management bodies within six months of their establishment; in particular, in the event of a conflict of interest arising from a person participating in the evaluation, follow-up of the award procedure and/or the decision to award a contract by the managing body, the latter shall refrain from any intervention in the evaluation and/or the decision-making process;
- the management body shall organise a discussion forum with the regional administrations and with all the organisations representing the actors involved in the implementation of the Extended Producer Responsibility, including representatives of the social economy, consumer associations and environmental associations; the discussion forum shall meet at least once a year following the presentation of the approved annual report; the management body shall also propose the ongoing and future actions; each meeting of the Forum shall be the subject of a report sent to all parties;
- the management body actively participates in the meetings of the follow-up committee organised, where appropriate, by the ERP Decision-Making Body, in principle annually; the main objective of this follow-up committee is to verify the proper implementation of the Extended Producer Responsibility; it discusses the essential elements of the management body's management of the waste stream, as well as the initiatives of the Regions; the agenda

of the meeting is set by the ERP Decision-Making Body in consultation with the management bodies; each meeting of the follow-up committee shall be the subject of a report prepared by the ERP Decision-Making Body;

- where the management body itself is responsible for the award of markets for the collection, sorting, treatment and recycling of waste, those markets shall be allocated by the management body on the basis of a tender specifications and a market allocation procedure; in order to draw up the tender specifications and the market allocation procedure, the management body shall consult the territorially competent legal entities of public law, the federations representing waste management companies, the federations of social economy enterprises active in the re-use and in preparation for re-use and consumer organisations; in order to facilitate these consultations, the management body may set up a 'joint committee' for the allocation of markets, composed of representatives of the management body, of the competent territorial legal entities of public law, of the federations representing waste management companies, of the federations of social economy enterprises engaged in re-use and preparation for reuse, and of consumer organisations; the joint committee shall lay down its operating rules in its internal rules of procedure; the reports of the consultation meetings or of the meetings of the joint committee shall be forwarded to the ERP Decision-Making Body; the specifications and market allocation procedure shall be submitted to the ERP Decision-Making Body for approval.

(5). To the extent that the Extended Producer Responsibility relates to household waste, the management body fulfils a public service mission and must:

- 1° serve the entire population in each Region;
- 2° enter into an agreement with any legal person governed by public law which is territorially competent for household waste; to this end, a model agreement shall be drawn up in consultation with the local authorities, which shall be submitted in advance to the competent regional administration for approval;
- 3° make the packaging and other required collection containers available free of charge to all collection points with which a uniform contract has been concluded for the collection of waste; the collection containers shall take into account, inter alia, the maximum storage capacity of retailers and recycling parks and optimise the safety and ergonomics of storage, storage, preparation for reuse and actual reuse; when selecting the packaging and collection containers, the principles of eco-design and use of recycled content shall be pursued to the fullest;
- 4° establish a sufficiently geographically dispersed network of collection points and, on a regular basis, collect from those collection points all waste that is subject to extended producer responsibility and which comes from its products; this collection must always be free of charge for collection points, unless otherwise provided for in the Executive Cooperation Agreement;
- 5° guarantee that the citizen can always deliver their discarded product free of charge at a collection point;
- 6° optimise its territorial organisation in terms of collection points, sorting and processing centres, and ensure that it studies the possibilities of mitigating the effects of transport by examining in particular the possibilities of inland waterway transport;
- 7° ensure access to the collection network for the reuse of the waste for which this is relevant and promote employment in associations or companies with a social purpose;
- 8° take into account the impact of vandalism on collection points and their impact on the implementation modalities and performance of the collection.

(6). To the extent that the Extended Producer Responsibility relates to corporate waste, the management body shall:

- 1° disturb the free market of selective collection, recycling and recovery as little as possible;
- 2° respect the equality between the private or public operators responsible for the collection, sorting, recycling and recovery of industrial waste;
- 3° ensure the transparency of the processing chain from collection to final treatment and ensure the controllability of the final treatment of industrial waste, as well as the environmental and social conditions in which such final processing takes place.

In this context, the management body shall also:

- set up a free market observatory, from the producer of the waste to the final destination, in order to ensure optimal traceability;
- where relevant, implement an SME plan to encourage sorting by small and very small enterprises;
- in the case of trading, enter into contracts with traders to ensure full traceability of the exported waste streams;
- establish an incentive financing mechanism to encourage recycling in Belgium.

(7). Within six months following the entry into force of the implementing cooperation agreement for the waste stream concerned, as provided for in Article 7(1), and then every five years, the management body submits to the ERP Decision-Making Body an application for recognition describing the manner in which payment shall be made to the whole of the conditions set out in paragraphs 1 to 6. The Executive Cooperation Agreement may lay down the modalities for further specifying this provision.

The ERP Decision-Making Body shall verify within a period of six months whether the application for approval of the management body fulfils all the conditions set out in paragraphs 1 to 6. The ERP Decision-Making Body shall, where appropriate, grant approval to the management body, which may also contain adjustment measures, which the management body must adhere to. The recognition may include additional target values to be addressed by the management body.

The ERP Decision-Making Body shall also ensure that the management body continues to comply with all the conditions set out in paragraphs 1 to 6. In the event of non-compliance with these provisions, the ERP Decision-Making Body may suspend or withdraw recognition after first giving a warning and an opportunity to adjust and then hearing the management body prior to the final decision.

Two years after the entry into force of each recognition, the ERP Decision-Making Body prepares an interim and summary evaluation of the implementation of the recognition and submits a report on this to the representatives of the regional governments. Four years after the entry into force of each recognition, the ERP Decision-Making Body shall draw up a summary evaluation note and a strategic orientation note for any new recognition for the attention of the representatives of the regional governments.

(8). Within 6 months following the entry into force of the Executive Cooperation Agreement for the waste stream concerned, as provided for in Article 7(1), and every two years thereafter, the coordination body referred to in the last paragraph of Article 7(1) shall inform the ERP Decision-Making Body of the way in which it intends to carry out its coordination task.

The ERP Decision-Making Body shall, where appropriate, formulate corrective measures to which the coordination body must comply.

(9). The producer who has not transferred its Extended Producer Responsibility to a management body must comply individually with the obligations laid down in paragraph 3, ensuring that no costs arising from the extended producer responsibility for products placed on the market by him shall be passed on to other producers. The producer must also contribute, to the same extent as a producer

affiliated to a management body, to the regional policy on the prevention and management of the waste concerned, as described in Article 8(2). The modalities for contributing to the Regions' policy are laid down in the producer's individual management plan.

Within six months following the entry into force of the Executive Cooperation Agreement for the waste stream concerned, as provided for in Article 7(1), and every five years thereafter, the producer submits to the ERP Decision-Making Body its individual management plan, which defines the manner in which it intends to comply with all of its obligations.

The ERP Decision-Making Body shall verify within a period of six months whether the individual management plan fulfils the obligations laid down in the first subparagraph and, where appropriate, approves, or formulates, the individual management plan, which the producer must comply with.

The ERP Decision-Making Body also ensures that the producer continues to comply with all the obligations.

Article 10

(1). The management body must achieve the collection objective and/or processing objective referred to in Article 7(1) for the whole of its members.

The management body shall report annually to the ERP Decision-Making Body on the products placed on the market by its members that give rise to the generation of the waste stream for which it is responsible and on the results obtained in collection and treatment.

This report shall be carried out annually by a date specified in the Executive Cooperation Agreement referred to in Article 7(1).

On the basis of the declaration of the management body, the ERP Decision-Making Body shall examine whether the collection and processing objectives set out in this Cooperation Agreement are being met.

(2). A producer who has not transferred their Extended Producer Responsibility to a management body must achieve the collection objective and/or processing objective referred to in Article 7(1). They shall report annually to the ERP Decision-Making Body on the products they have placed on the market that lead to the generation of the waste stream for which it is responsible and on the results obtained in collection and treatment.

This reporting shall be made annually by a date specified in the Executive Cooperation Agreement, referred to in Article 7(1).

On the basis of the producer's declaration, the ERP Decision-Making Body shall examine whether the collection and processing objectives set out in this Cooperation Agreement are being met.

If a producer proves unable to achieve its collection and processing objectives, by decision of the ERP Decision-Making Body, the Extended Producer Responsibility must still be transferred to a management body.

(3). The detailed arrangements for the reports referred to in (1) and (2) are further determined by the Regional Governments per stream, by means of the Executive Cooperation Agreement referred to in Article 7(1). The Executive Cooperation Agreement may also provide for additional reports under the Extended Producer Responsibility for the waste stream in question and determine the modalities for this; this concerns reports to the government, or a system designated by the government, by specific actors, in accordance with Article 41.

Article 11

(1). The operator of an online marketplace shall be required to inform in writing all producers who sell a product through its online marketplace to private households or users other than private households in the territory by means of distance sales, of their obligations under the Extended Producer Responsibility.

(2). The operator of an online marketplace shall prevent producers who fail to submit an individual management plan to the ERP Decision-Making Body or are not affiliated to a management body from entering into distance contracts through its online marketplace with private households or users other than private households in the territory. To that end, the operator of an online marketplace shall require the producer to provide, at the time of registration on the online marketplace, the written proof of its submission of an individual management plan or of its membership to the management body(s) concerned.

By way of derogation from the preceding paragraph, the operator of an online marketplace may nevertheless allow a producer that has not submitted an individual management plan to the ERP Decision-Making Body or is not affiliated to the management body(s) concerned to conclude distance contracts through its online marketplace with private households or users other than private households in the territory, in which case the administrator itself shall have to bear the obligations under the Extended Producer Responsibility to which that producer is normally held.

The administrator of an online marketplace shall provide the ERP Decision-Making Body, by 1 March each year, with an overview of all producers who have been able to conclude distance contracts at its online marketplace in the previous year with private households or users other than private households in the territory, and the date of submission of their individual management plan or registration number to the management body/bodies concerned.

If, and as long as, the ERP Decision-Making Body finds that a producer active in an online marketplace fails to comply with its obligations under the Extended Producer Responsibility, the operator of the online marketplace must, at the first request of the ERP Decision-Making Body, prevent that producer from concluding distance contracts on its online marketplace with private households or users other than private households in the territory. If the operator of the online marketplace fails to do so within the time limit imposed by the ERP Decision-Making Body, this administrator shall have to take responsibility for the obligations of this producer in the context of the Extended Producer Responsibility.

(3). If the operator of an online marketplace also acts as a producer, it shall also be subject to the obligations relating to the Extended Producer Responsibility for the products it sells itself.

(4). (1)-(3) enters into force one year after the entry into force of the current Cooperation Agreement.

Article 12

(1). The management body should pay particular attention to the economic and financial balance of the system introduced. To that end, the management body shall draw up an annual financial plan. The financial plan includes:

- 1° the budget;
- 2° the calculation of any environmental contributions, which are uniform on Belgian territory;
- 3° the policy on the use of environmental contributions, which must be proportionate in the three Regions;

- 4° the policy on commissions and reserves, whereby reserves may equal to up to the operating costs of the management body for the waste stream concerned for 12 months and where commissions are only possible to the extent that they are permitted by accounting law and are adequately justified in the light of market instability, which is demonstrated by an annual detailed study of current and future markets; the justification is supported by the supervisory board's annual audit of the annual accounts of the management body, supplemented, where appropriate, by an additional assessment by another external auditor appointed by the ERP Decision-Making Body;
- 5° the method of financing any losses;
- 6° the method of financing the management of end-of-life products of which the producer is no longer active or can be identified;
- 7° the investment policy, whereby financial investments must be secure and the risk of loss of capital should be mitigated;
- 8° the eco-modulation policy.

The Executive Cooperation Agreement referred to in Article 7(1) may, for each waste stream, impose additional elements to be included in the financial plan, including specific financing modalities, in accordance with Article 41.

(2). The budget shall include, as a separate component, the means which the management body provides for prevention, for the high-quality closure of the cycles, in addition to the set collection and processing objectives, and for stimulating the circular economy. These resources come in addition to the contribution of the management body to the regional policy by paying the levy provided for in Article 8(1).

(3). The financial plan shall be submitted annually to the ERP Decision-Making Body by 1 November at the latest. The ERP Decision-Making Body has three months to give an opinion. Within this period, the ERP Decision-Making Body may request additional information, so that the period of three months starts to run again from the receipt of this information.

In the context of this opinion, the ERP Decision-Making Body shall examine, on the basis of the financial plan submitted by the management body, whether any commissions meet the conditions referred to in Article 12(1), 4°.

The ERP Decision-Making Body may question the auditors of the management body to obtain all the required information. It can also have the accounts examined by an external auditor or accountant appointed at its own expense.

If the supervisory board's audit of the annual accounts of the management body, supplemented, where appropriate, by an additional assessment by another external auditor designated by the ERP Decision-Making Body, shows that certain commissions are not justified under accounting law or that the justification of certain commissions cannot be established because of a lack of justification, the ERP Decision-Making Body may suspend or withdraw the recognition referred to in Article 9(7), after first having issued a warning and requesting a proposal from the management body to cancel the problematic commissions as soon as possible; if this proposal is not submitted by the management body within a period of three months or if it is not accepted by the ERP Decision-Making Body, the management body shall be heard prior to the final decision suspending or withdrawing the recognition.

Article 13

(1). If the collection and/or processing objectives referred to in Article 7(1) are not met by the management body for its affiliated producers, it shall pay an additional levy of EUR 50 per tonne for which the collection target is not met and EUR 50 per tonne for which any collection target is met, but the processing target is not met.

If the collection and/or processing objectives, as referred to in Article 7(1), are not reached by the management body for a second successive year, the amounts of the levy shall be increased to EUR 100 per tonne started and from the third successive year, the amounts of the levy shall start to be increased to EUR 150 per tonne.

This additional levy must contribute to the financing of the Regions' policy on the prevention and management of the waste concerned and is subject to the provisions of Article 8(2).

(2). If the collection and processing objectives have not been met, the ERP Decision-Making Body shall communicate the additional charges to be paid per Region to the management body.

The levy shall be paid within three months at the latest by depositing to the account number communicated by each Region.

Article 14

(1). If, within a period of three years after the end of the calendar year in which this Cooperation Agreement enters into force, the reserves of a management body, as shown in the annual accounts, exceed the operating costs of the management body for the waste stream concerned for 12 months, an additional charge of 10 % shall be imposed on the part of the reserves exceeding this standard.

In the Executive Cooperation Agreement referred to in Article 7(1), the percentage of the levy may be temporarily reduced.

This additional levy must contribute to the financing of the Regions' policy on the prevention and management of the waste concerned and is subject to the provisions of Article 8(2).

(2). If the reserves are higher than the standard referred to in (1), the ERP Decision-Making Body shall communicate the additional charges to be paid per Region to the management body.

The levy shall be paid within three months at the latest by depositing to the account number communicated by each Region.

Section 2 – Register and authorised representative

Article 15

(1). Each producer, including the producer making products available by means of distance selling, must be registered in a public online register made available free of charge by the organisation appointed for this purpose by the ERP Decision-Making Body.

(2). The register referred to in paragraph 1 of this Article shall contain all useful information on the activities of the producer in Belgium, and in particular the following information:

1. name and address of the producer and the name and address of its authorised representative where applicable (postal code and municipality, street and number, country, telephone and fax number, email address and contact person);
2. national identification code of the producer, including European or national tax number;

3. product category, as defined in the Executive Cooperation Agreement referred to in Article 7(1);
4. type of product (household or intended for users other than households);
5. commercial description of the product;
6. information on how the producer fulfils its responsibilities: by means of an individual or collective arrangement, including information on the financial guarantees;
7. selling method used (e.g. distance selling);
8. statement ensuring that the information provided is accurate.

Article 16

(1). The producer established outside Belgian territory may appoint a natural or legal person established in Belgium as an authorised representative to monitor compliance with the obligations incumbent on the producer under this Cooperation Agreement.

Each producer as defined in Article 2, 4°, established outside Belgian territory, who sells products in Belgium directly to private households or to users other than private households, appoints a natural or legal person established in Belgium as authorised representative to monitor compliance with the obligations incumbent on the producer under this Cooperation Agreement.

(2). The appointment of an authorised representative shall be carried out through a written mandate. When the mandate expires, the authorised representative and the producer shall inform the government within the month following the end of the mandate.

(3). Any producer established on Belgian territory selling products outside Belgian territory, but within the European Union, shall appoint in that territory an authorised representative who is responsible for ensuring compliance with the obligations which the producer is subject to under legislation.

Section 3 – Regional competences

Article 17

Subject to the tasks assigned to the ERP Decision-Making Body under this Cooperation Agreement, the Regions are competent in how producers fulfil their obligations.

To the extent that they are not regulated by the Regional Governments in an executive cooperation agreement, as referred to in Article 7(1), the following areas may be regulated by each of the Regions for their own territory in regional laws and regulations:

- 1° the communication policy;
- 2° the collection system;
- 3° the organisation of the treatment of the waste;
- 4° the prevention policy;
- 5° the use of the various levies.

Section 4 – Amendments to the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste

Article 18

In the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, an Article 14a is added with the following text:

'Article 14bis. (1). The stream of "packaging waste of industrial origin" is subject to a financial obligation in the form of a levy for the approved body; it should contribute to the financing of the regional policy on the prevention and management of the relevant waste.

The levy is expressed as an amount per capita per year, the number of inhabitants being determined by the most recent population statistics of the General Directorate for Statistics and Economic Information of the Federal Public Service Economy, SMEs, Self-Employed and Energy, available on 1 January of the same year.

Where more than one approved body exists, the levy shall be borne by each approved body up to its market share, calculated together by the approved bodies on the basis of the total weight of the industrial packaging placed on the market by members of each approved body.

The levy shall be due from the first calendar year following the entry into force of the current Cooperation Agreement.

The levy is EUR [0.040]/resident.

The amounts per capita shall be adjusted annually to the consumer price index, with the base index being the average of consumer price indices from January to December 2008, based on 2004.

The indexed amounts shall be rounded to the higher or lower tenth eurocents, depending on whether or not the figure of the hundredth eurocent reaches 5.

- (2). The Regions' policy on the prevention and management of the waste concerned may include:*
- the prevention and re-use of the waste concerned;*
 - the fight against the presence of the waste concerned in litter, illegal and residual waste;*
 - research and development to improve the quality of the products concerned and in particular their recyclability;*
 - the improvement of the results and/or the quality of the selective collections of the waste concerned;*
 - the non-selective collection and treatment of the waste concerned;*
 - the reimbursement of staff responsible for monitoring, implementing and monitoring the above mentioned actions;*
 - the reporting and evaluation of this waste;*
 - promoting local and high-quality processing in the context of the circular economy.*

The global amounts of the levy shall be distributed between the Regions according to the latest population statistics of the General Directorate for Statistics and Economic Information of the FPS Economy, SMEs, Self-Employed and Energy, available on 1 January of the year in which the declaration period falls.

Each Region shall determine, after consulting the approved bodies concerned, the specific uses of the amounts they have received.

(3). The levy shall be paid annually by 31 March at the latest, by depositing into the account numbers communicated by each Region.'

BOOK III – PROVISIONS CONCERNING THE EXTENDED PRODUCER RESPONSIBILITY FOR LITTER

Section 1 – Scope

Article 19

(1). Book III of this Cooperation Agreement applies to the following waste materials:

- 1° tobacco products;
- 2° chewing gum;
- 3° moist wipes;
- 4° balloons.

(2). With Book III of the present Cooperation Agreement, a scheme for the extended producer responsibility is introduced for the waste referred to in (1).

The Extended Producer Responsibility scheme means that producers cover the total and real costs for:

- 1° the awareness-raising measures taken in relation to that waste under Article 33;
- 2° cleaning up the litter of these products, and for the subsequent transport and processing of such litter in accordance with the regional provisions;
- 3° collection of waste from products discarded in the public collection systems, including the costs for the infrastructure and its operation and for the subsequent transport and processing of that waste; These costs may also relate to the setting up of specific infrastructure for the collection of waste from these products, whether selective or not, such as appropriate waste containers in places where frequent litter is found;
- 4° the collection and reporting of data on the products placed on the market in Belgium by producers, as well as data on the collection and treatment of waste originating from those products;
- 5° their contribution to the general costs of government litter policy, including control.

(3). Book III of this Cooperation Agreement is without prejudice to the powers of municipalities or agglomerations in the field of public cleanliness.

Article 20

Producers established in another Member State who place products on the market in Belgium may designate a legal or natural person established in Belgium as an authorised representative for the fulfilment of a producer's obligations under the extended producer responsibility schemes.

Each producer established in Belgium and selling products from a distance directly to private households or to users other than private households in another Member State shall appoint an authorised representative in that Member State. The authorised representative shall be responsible for fulfilling the obligations of that producer applicable in the territory of that other Member State under Directive (EU) 2019/904.

Section 2 – Obligations for producers

Article 21

The producer falling within the scope set out in Article 19 may fulfil its Extended Producer Responsibility:

- 1° on an individual basis: by possessing on an approval of its 'individual litter management plan', as provided for in Subsection 2.1;
- 2° on a collective basis: by concluding an agreement with a collective body as provided for in Article 26 to the extent that the latter fulfils the obligations imposed under Subsection 2.2.

Section 2.1 – Individual implementation

Article 22

- (1). The producer wishing to implement its Extended Producer Responsibility on an individual basis shall submit a 'individual litter management plan' to the ERP Decision-Making Body for approval. entails implementing its Extended Producer Responsibility on an individual basis on litter.
- (2). The 'individual litter management plan' shall include the following data and commitments:
- 1° identification data:
 - a. name, legal form, registered office and number of the commercial register or a corresponding registration and business number of the producer;
 - b. domicile and address of the manufacturer and, where appropriate, the registered office, administrative seat, and place of business;
 - c. telephone number of the place of residence, place of business or place of employment, within the territory where the producer can be reached;
 - d. if the applicant does not have a place of residence or, where applicable, a registered office in the territory, an indication of a place of employment, a place of employment or office where the commercial register can be consulted at any time by the regional administration;
 - e. name and position of the signatory of the application;
 - 2° objective
 - a. indication of the waste covered by the scope and the corresponding products covered by the management plan;
 - b. description of the way in which the producer, through its management plan, shall comply with the Extended Producer Responsibility scheme imposed in Book III of this Cooperation Agreement. This management plan shall specify in detail how the producer shall ensure either the organisational and financial recovery of the totality of the litter from the products placed on the market by it or the reimbursement of the costs referred to in Article 19(2) for litter arising from the products placed on the market by it. The first option should include the agreement of the public authorities responsible for the management of litter from the products placed on the market by the producer, and includes, in addition to a plan of action for the disposal of litter, actions to collect and report the data and to finance the other elements of the litter policy listed in Article 19(2). The second option concerns reimbursement to all public authorities that bear these costs. Such remuneration shall be proportionate, depending on the weight of the products placed on the market, to the financial obligation for the collective body, as referred to in Article 27. The Interregional Commission for the ERP takes care of this for the publication, by Region, of the necessary cost indicators;
 - 3° commitment: the written undertaking, dated and signed by the producer, or, where appropriate, by a natural person who can bind the company to undertake that the commitments entered into under point 2(b) for the organisational and financial take-back of litter or to finance the public authorities shall be implemented effectively.
- (3). A producer which implements its Extended Producer Responsibility on an individual basis must report to the ERP Decision-Making Body by 31 March each year on the products it has placed on the Belgian market, as well as on how it implements its 'individual litter management plan' and the obligations of this Cooperation Agreement.

Article 23

- (1). The 'individual litter management plan' referred to in Article 22 shall be approved in accordance with the following procedure:

- 1° the management plan is submitted to the ERP Decision-Making Body, dated and signed by the applicant, or, where appropriate, by a natural person who can bind the company, with a copy of the instrument of incorporation and any amendments thereto during the last five years in the annex;
- 2° the ERP Decision-Making Body examines the management plan for completeness in accordance with the provisions of Article 22(2):
 - a. if the management plan is found to be incomplete, the ERP Decision-Making Body shall inform the applicant within 30 calendar days of the submission or completion of the management plan with a secure consignment, indicating the information and the missing information;
 - b. if it is established that the management plan is complete, the ERP Decision-Making Body shall inform the applicant with a secure consignment within 30 calendar days of the submission or completion of the management plan;
- 3° within four months from the date on which the management plan is established to be complete, the ERP Decision-Making Body shall rule on the management plan; during those four months, the ERP Decision-Making Body may request any explanations and information necessary for the substantive assessment of the management plan;
- 4° the ERP Decision-Making Body shall send its decision to approve or reject the management plan containing a secure consignment to the applicant within 10 calendar days of the decision.

(2). For each 'individual litter management plan' a file fee of EUR 250 shall be charged, payable upon submission of the management plan. The period for examination of completeness starts only after receipt of the file cost.

(3). The approval referred to in (1) may only be granted for a period of up to five years.

Any approval decision valid for a shorter period must be justified. A renewal of the approval shall be possible, in accordance with the procedure laid down in this Article, for a maximum period of five years.

Article 24

The ERP Decision-Making Body may do the following concerning the approval, referred to in Article 23(1):

- 1° revoke an approval at the request of the beneficiary of the approval;
- 2° this shall be revoked or suspended ex officio upon presentation of a report of determination or a report establishing an infringement of the provisions of this Cooperation Agreement or a crime.

Except in cases of immediate threat to humans or the environment, the beneficiary of the approval shall be informed of the proposed decision and its grounds by registered letter at least fourteen days before it shall be served. Within such a period, the beneficiary of the approval may raise objections or make the required adjustments.

Article 25

(1). The holder of the approval, referred to in Article 23(1), is obliged to immediately communicate to the ERP Decision-Making Body changes to the following information in its 'individual litter management plan':

- 1° name, legal form, registered office and trade register number or a corresponding registration and company number;
- 2° their place of residence, address and telephone number and, where applicable, the address and telephone number of the registered offices, administrative and operating offices or of the place of employment within the territory;
- 3° the subject of the management plan;

4° the commitments in the management plan.

(2). The producer must comply promptly with the commitments set out in its management plan.

Section 2.2 – Collective implementation

Article 26

(1). The producer wishing to implement its Extended Producer Responsibility on a collective basis must, directly or through a natural or legal person authorised to represent him, join a collective body.

(2). A collective body which may be ordered by producers to fulfil their obligations shall be a legal person which fulfils the following conditions:

- 1° established as a non-profit-making association in accordance with the Code of Companies and Associations of 23 March 2019;
- 2° mandated and financed by producers;
- 3° have as its sole object the responsibility of the members for the obligations imposed on them under the Extended Producer Responsibility of Book III of this Cooperation Agreement;
- 4° the administrators or persons who can bind the association must possess their civil and political rights;
- 5° the administrators or the persons who can bind the association may not have been convicted of an infringement of the environmental legislation of the Regions or of a Member State of the European Union during the last five years;
- 6° have the necessary resources to fulfil the statutory purpose;
- 7° are active in the three Regions.

(3). The collective body is required to:

- 1° conclude an accession agreement with any producer who so requests;
- 2° make available online to the ERP Decision-Making Body the full list of producers who have concluded an accession agreement with the collective body;
- 3° ensure that there is no discrimination in accepting or excluding members;
- 4° ensure that individual or individualisable data are treated confidentially;
- 5° ensure that the ERP Decision-Making Body has online access to the data under this Cooperation Agreement;
- 6° fulfil the obligations of all producers who have concluded an accession agreement with them;
- 7° collect the contribution of the contractors, in a non-discriminatory manner, in order to cover the real and full costs of the obligations borne by him in accordance with the current agreement;
- 8° annually deposit with the ERP Decision-Making Body the balance sheets and profit and loss accounts of the previous year, and by 1 November the budget for the following year relating to this Cooperation Agreement.

Article 27

(1). In order to comply with the Extended Producer Responsibility scheme laid down in Book III of this Cooperation Agreement, producers choose, through their collective body, together with the public authorities concerned, either for the organisational and financial take-back of litter (organisational and financial option) or for the reimbursement of the costs referred to in Article 19(2) incurred by those public authorities as a result of litter from the products placed on the market by the members of the collective body (financial option). The option chosen may vary depending on the public authority concerned, which itself determines which option suits it best.

If the reimbursement of the costs referred to in Article 19(2) (financial option) is chosen, the collective body shall cover the total and real costs of the public authorities concerned by the annual payment of the following amounts to the Regions (financial option), which correspond to the total and real costs of the whole of the public authorities:

- 1° from the 2023 declaration year, for litter of tobacco products: EUR 61 202 448 , consisting of an amount of EUR 17 906 623 for the Brussels-Capital Region, an amount of EUR 17 873 971 for the Walloon Region and an amount of EUR 25 421 854 for the Flemish Region;
- 2° from the declaration year 2024, for moist-wipe litter: EUR 2 550 027 , consisting of an amount of EUR 776 857 for the Brussels-Capital Region, an amount of 670 274 for the Walloon Region and an amount of EUR 1 102 896 for the Flemish Region;
- 3° from the declaration year 2024, for balloon litter: EUR 163 722 , consisting of an amount of EUR 49 195 for the Brussels-Capital Region, an amount of EUR 44 685 for the Walloon Region and an amount of EUR 69 842 for the Flemish Region.

The amounts shall be reduced by the amounts financed by producers who implement their obligations under Subsection 2.1 on an individual basis. To the extent that the collective body, together with the public authorities concerned, has opted for the organisational and financial take-back of litter, it shall be exempt from the financial obligation referred to in Article 27(1), up to the amounts corresponding to the share of the total costs of those public authorities concerned, as published by the Interregional Commission for the ERP.

The Interregional Commission for the ERP shall ensure the publication, by Region, of the public authorities concerned and the share of the costs of each of these public authorities, with the possibility of further distinguishing between the costs referred to in Article 19(2)(1), 2°, 3°, 4° and 5°, as well as from all other relevant indicators.

If several collective bodies are created for the same stream, the collective bodies shall have an obligation to set up a coordination body with a view to ensuring the equitable distribution of the financial obligation among the various collective bodies.

The amounts shall be adjusted annually to the consumer price index, the base index being the average of consumer price indices from January to December 2022, based on 2013.

Within two years of the entry into force of the current Cooperation Agreement, the ERP Interregional Commission, together with the competent regional administrations, shall carry out an evaluation of the amounts of the levy, as set out in the second subparagraph, on the basis of the same assumptions in the three Regions, for the benefit of the Regional Governments. The amounts of the levy must be adjusted on the basis of this evaluation at the latest from the declaration year 2027. Then, an evaluation of this type takes place every five years.

In the event that the organisational and financial take-back of litter is chosen (organisational and financial option), the collective body shall submit its application for recognition to the ERP Decision-Making Body or the mandate shall be awarded to the recognised body within the meaning of the Cooperation Agreement of 4 November 2008, in accordance with Article 28.

In principle, a collective body is recognised for a period of five years. If the application for recognition concerns tobacco products, the ERP Decision-Making Body shall request an opinion from the Alliance for a Smoke-Free Society. The ERP Decision-Making Body ensures that the collective body continues to fulfil all its obligations. In the event of non-compliance with these obligations, the ERP Decision-Making Body reserves the right to reconsider the recognition after first giving a warning and an opportunity to adjust and then hearing the management body prior to the final decision.

Four years after the entry into force of each recognition of a collective body, the ERP Decision-Making Body shall draw up a summary evaluation note as well as a strategic orientation note for a possible re-recognition for the benefit of the representatives of the regional governments.

The application for recognition must contain at least the following information:

- a copy of the articles of association as published in the Belgian Official Gazette;
- a financial plan and a provisional budget for the duration of the approval;
- the nature of the waste concerned;
- a draft accession contract to be concluded by the collective body with its members;
- a model contract with the territorially competent legal entities of public law on public cleanliness, and with the other public authorities responsible for the management of litter, including the rules and procedures for the reimbursement of real and full costs, including overheads; this model contract must be drawn up in consultation with those legal persons and public authorities, or their representatives;
- an operational plan for the management of litter in cooperation with the competent territorial legal entities of public law on public cleanliness and a description of the actions to be taken by the other public authorities responsible for litter management;
- the proposed degree of progress in the regional territories and the deadlines for implementation;
- setting up new models (such as Green Deals);
- the reporting and control method to evaluate the efficiency of the system set up.

The application of the organisational and financial take-back of the litter should under no circumstances lead to:

- the producers or their representatives determining the government's littering policy;
- the government's policy to discourage smoking being hindered;
- the World Health Organisation's Framework Convention on Tobacco Control is being violated;
- the government's policy to discourage the use of one-off packaging being hindered.

(2). The amounts are paid annually by 31 March of the year following the declaration year. The amounts are paid on the basis of an assessment form made available by the ERP Decision-Making Body.

The assessment form shall contain at least the following information:

- 1° the amounts claimed by Region or public authority concerned;
- 2° the account numbers to which the amounts have to be paid.

(3). An administrative fine may be imposed by the official responsible for recovery if, after verification by the official responsible for recovery and, an administrative fine may be imposed by an administrative fine if a collective body does not make payment. That fine shall be 10 % of the unpaid amount.

(4). If the amount has not been paid after the expiry of the period referred to in (2), the statutory interest is due automatically, as stated in the Royal Decree of 4 August 1996 amending the statutory interest rate.

(5). The collective body shall be required to submit all the information necessary to verify the accuracy of the amounts paid at any request by the officials responsible for the inspection.

The collective body shall, at any request of the officials responsible for the inspection, provide, orally or in writing, any information requested to verify the accuracy of the sums paid.

(6) As regards chewing gum, the sector is committed to implementing a programme of actions and campaigns of awareness-raising and cleaning, totalling EUR 3.5 million, spread over five years, starting in 2024. The modalities of this commitment and the balanced distribution of actions at national and regional level shall be discussed and approved by the ERP Decision-Making Body.

Article 28

An approved body within the meaning of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste may, for waste streams other than packaging waste and for a fee covering the total and real costs of those flows, fulfil the role of a collective body by fulfilling the financial obligation referred to in Article 27(1) and/or by organising and financing, on behalf of the producers, the actions and costs referred to in Article 19(2), by means of contracts concluded by the approved body, where appropriate, with the public authorities responsible for the costs referred to in Article 19(2); in the latter case, the financial obligation referred to in Article 27(1) shall be reduced by the amounts corresponding to the share of the total costs of the public authorities which have concluded such a contract.

These contracts must be in accordance with the model contracts approved by the ERP Decision-Making Body, after consulting the Packaging Decision-Making Body.

The ERP Decision-Making Body shall ensure the publication, per Region, of the public authorities concerned and the share of the costs of each of these public authorities, whereby further distinction can be made between the costs referred to in Article 19(2), 1°, 2°, 3°, 4° and 5°, as well as from all other relevant indicators.

Article 29

Pertinent and measurable indicators in terms of resources and results relating to the evolution of public cleanliness shall be defined, on a proposal from the ERP Decision-Making Body, in the recognition referred to in Article 27(1) and/or in the recognition of the body, as provided for in the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste. The Interregional Commission for the ERP shall examine whether the results of the indicators reflect a favourable evolution in the situation of improving public cleanliness.

Article 30

The ERP Decision-Making Body may question the auditors of the collective body with a view to obtaining any information it wishes under this Cooperation Agreement. The ERP Decision-Making Body may have the accounts reviewed at its expense by an auditor or external auditor who appoints it. If the collective body has not designated auditors, this task shall be carried out at the expense of the collective body.

Article 31

If a collective body undertakes actions with a regional scope for consumer awareness, these must be submitted to the regional administrations for approval. The regional administrations shall examine whether the proposed actions are in line with the objectives and provisions of the Cooperation Agreement and with the objectives of the Region's waste and materials policy.

Section 3 – Government tasks

Article 32

If, under the financial option, amounts are paid to the Region, in accordance with subsections 2.1 and 2.2, each Region determines independently the specific uses and use thereof, with a view to reimbursing the total and real costs of the littering policy of the public authorities concerned.

Article 33

If, under the financial option, amounts are paid to the Region in accordance with subsections 2.1 and 2.2, the regional administrations shall take measures to educate consumers and promote responsible consumer behaviour, with a view to reducing litter of products covered by this Cooperation Agreement, they shall take measures to inform consumers about:

- 1° the availability of reusable alternatives, re-use systems and waste management opportunities for those products, as well as best practices for sound waste management in accordance with regional waste legislation;
- 2° the effects on the environment, in particular the marine environment, of litter and other inappropriate forms of disposal of waste from those products;
- 3° the consequences of inappropriate methods of disposal of these products on the sewage system.

Article 34

(1). The collective body shall be obliged to communicate annually, by 31 March at the latest, to the ERP Decision-Making Body for the previous calendar year:

- the list of contracts concluded with the public authorities which bear costs for litter and the amounts paid to each of these public authorities;
- the list of producers who have concluded an accession contract;
- the quantity of products placed on the market by Members;
- the financial data used for the calculation of contributions.

(2). In the case of the organisational and financial take-back of litter (organisational and financial option), the collective body is required to also communicate the following information to the ERP Decision-Making Body by 31 March at the latest for the previous calendar year:

- the quantities of litter collected;
- the quantities of litter sorted, recycled and recovered.

Section 4 – Amendments to the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste

Article 35

(1). In Article 10(2) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, the full stop is replaced by a semicolon at the end of point 7°.

(2). A point 8° is added to Article 10(2) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, with the following text:

'8 ° if the recognition relates to the obligations of the Cooperation Agreement on the framework for extended producer responsibility for certain waste streams and for litter:

- *a financial plan and a provisional budget for the duration of the approval;*
- *the nature of the waste concerned;*
- *a draft accession contract to be concluded by the collective body with its members;*
- *a model contract with the territorially competent legal entities of public law on public cleanliness, and with the other public authorities responsible for the management of litter, including the rules and procedures for the reimbursement of real and full costs, including overheads;*

- *an operational plan for the management of litter in cooperation with the competent territorial legal entities of public law on public cleanliness, and a description of the actions to be taken by the other public authorities responsible for litter management;*
- *the proposed degree of progress in the regional territories and the deadlines for implementation;*
- *the modalities for strengthening the selective collection of household packaging from families and out-of-home;*
- *setting up new models (such as Green Deals);*
- *the reporting and control method to evaluate the efficiency of the system set up.'*

Article 36

(1). In Article 7 of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, a §3 is added, with the following text:

'(3). The party responsible for packaging, as referred to in paragraph 1 of this article, shall take back, either organisationally and financially, the totality of the litter from household packaging placed on the market by him or for the reimbursement of the costs listed in Article 13(1), 15°, of all public authorities which bear those costs, for the litter that originates. from the household packaging it has placed on the market. The first option should include the agreement of the public authorities responsible for the management of litter from household packaging placed on the market by the packaging manager and includes, in addition to a plan of action for the disposal of litter, actions to collect and report the data and to finance the other elements of the litter policy listed in Article 13(1), 15°. The second option concerns reimbursement to all public authorities that bear these costs. This fee must be in a proportion, depending on the weight of packaging placed on the market, to the financial obligation for the approved body, as set out in Article 13(1), 14°. The Interregional Commission for the ERP takes care of the publication, by Region, of the necessary cost indicators.

The packaging manager shall provide a description of how they will comply with this obligation. This description shall include both the determination of the level of the reimbursement, on the basis of the cost indicators published by the Interregional Commission for the ERP, and the method of financing."

(2). In Article 7 of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, §4 is added, with the following text:

'(4). The packaging manager, as referred to in paragraph 1 of this Article, must contribute to the Region's policy on the prevention and management of packaging waste, as described in Article 13(1), 12° for packaging waste of household origin and in Article 14a for packaging waste of industrial origin, to the same extent as a packaging manager affiliated with an approved body. The modalities for contributing to the policies of the Regions shall be laid down in the producer's individual management plan.'

(3). In Article 10 of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, (5) is added, with the following text:

'(5). Four years after the entry into force of each approval, the Packaging Decision-Making Body shall draw up a summary evaluation note and a strategic orientation note for any new approval for the benefit of the representatives of the regional governments.'

(4). In Article 13(1) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, the fifth paragraph of 12° is replaced by the following:

'The Region's policy on the prevention and management of packaging may include:

- *the prevention of packaging waste;*

- *Research & Development to improve the quality of the packaging and in particular their recyclability;*
- *the improvement of the results and/or the quality of the selective collections;*
- *the non-selective collection and treatment of packaging waste;*
- *monitoring and monitoring the objectives of this Cooperation Agreement;*
- *the fight against the presence of packaging in illegal waste;*
- *the remuneration of the staff responsible for monitoring, implementing and monitoring the above-mentioned actions.'*

(5). In Article 13(1) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, the point is replaced by a semicolon at the end of 13°.

(6). A point 14° is added to Article 13(1) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, with the following text:

'14 ° to the extent that no contract is applicable, as provided for in point 15°, as from the declaration year 2023, bear the costs provided for in point 15° by paying a levy of EUR 113 892 218, paid from an amount of EUR 33 169 036 for the Brussels-Capital Region, an amount of EUR 33 633 432 for the Walloon Region and amount of EUR 47 089 750 for the Flemish Region.

The ERP Decision-Making Body shall ensure the publication, by Region, of the public authorities concerned and the share of the total costs of each of those public authorities, thereby further distinguishing between the costs referred to in points 15°(1), 2, 3 and 4.

The amounts of the levy referred to in the first subparagraph of this point must be adjusted at the latest from the declaration year 2027 on the basis of the evaluation provided for in Article 27(1) of the Cooperation Agreement on the framework for the Extended Producer Responsibility for certain waste streams and for litter, with the express intention of extending the scope of the levy to cover litter from all household packaging.

The amounts of the levy referred to in the first subparagraph of this point shall be automatically reduced by 25 % from the calendar year following the first full year of operation of a deposit system or equivalent household beverage packaging system; The reduced amounts shall then be reduced by 5 % each year for each of the following six calendar years.

The amounts actually payable under the levy shall be determined by reducing the amounts referred to in the first subparagraph by the amounts corresponding to the share of the total costs of the public authorities which have concluded a contract within the meaning of point 15°, as well as the contributions of those responsible for packaging who give effect to their obligations on an individual basis, in application of Article 7(3).

The amounts referred to in the first subparagraph of this point shall be adjusted annually to the consumer price index, the base index being the average of consumer price indices from January to December 2022, basis 2013.

Within two years of the entry into force of the Cooperation Agreement on the framework for extended producer responsibility for certain waste streams and for litter, the Interregional ERP Commission, together with the competent regional administrations, shall carry out an evaluation of the amounts of the levy, as set out in the first subparagraph, on the basis of the same assumptions in the three Regions for the regional governments. This evaluation is then repeated every five years.

The amounts referred to in the second subparagraph of this point shall be paid annually by 31 March of the year following the declaration year. The amounts are paid on the basis of an assessment form made available by the ERP Decision-Making Body.

The assessment form shall contain at least the following information:

- 1° the amounts claimed by Region or public authority concerned;
- 2° the account numbers to which the amounts must be paid.

If the approved body does not make payment or if, after verification by the official responsible for recovery and recovery, it appears that the sums paid are incorrect, a fine may be imposed by the members of the Standing Secretariat responsible for monitoring. That fine shall be 10 % of the unpaid amount.

If the amounts have not been paid after the expiry of the prescribed payment period, the statutory interest is due automatically, as stated in the Royal Decree of 4 August 1996 amending the statutory interest rate.

The approved body shall be required to submit all the information necessary to verify the accuracy of the amounts paid at any request made by the officials responsible for the inspection.

The approved body shall, at any request of the officials responsible for the inspection, provide, orally or in writing, any information requested to verify the accuracy of the sums paid.

For the 2023 declaration year and for each Region, the amount of any voluntary financial commitments referred to in point 4° not covered by a previous agreement shall be deducted from the amounts referred to in the second subparagraph of this point.'

(7). A point 15° is added to Article 13(1) of the Cooperation Agreement of 4 November 2008 on the prevention and management of packaging waste, with the following text:

'15° If, through the approved body, the producer, together with the public authorities concerned, chooses to fulfil its obligation by means of a system of organisational and financial take-back of litter (organisational and financial option), the producer enters into contracts with the public authorities which bear costs for the management of litter arising from the products placed on the market by the members of the approved body. These contracts must be in accordance with the model contracts which, after analysis by and on the proposal of the ERP Decision-Making Body, are approved by the Packaging Decision-Making Body and which have as their objective the organisation and financing of the total and real costs of:

1. *awareness-raising measures with a view to reducing litter from household packaging and informing consumers about:*
 - a) *the availability of reusable alternatives, re-use systems and opportunities for the management of disposable household packaging waste, as well as best practices for sound waste management in accordance with regional waste legislation;*
 - b) *the effects on the environment, in particular the marine environment, of litter and other inappropriate forms of disposal of household packaging waste;*
2. *cleaning up the litter of household packaging, and for the subsequent transport and processing of that litter in accordance with the regional provisions;*
3. *the collection of household packaging waste disposed of in public collection systems, including the costs of infrastructure, operation and subsequent transport and treatment of that waste. These costs should also cover the setting up of specific infrastructure for collection, whether selective or non-selective from household packaging, such as appropriate waste containers in places where litter is frequently found;*
4. *the proportional contribution to the general costs of government litter policy, including control.'*

Section 5 – Monitoring and penal provisions

Article 37

(1). Without prejudice to the powers of judicial police officers, the officials and members of staff of each competent administration of the Region designated by their Government, as well as the members of the Permanent Secretariat of the Interregional Commission for the ERP, shall also be responsible for supervising the provisions of Books II and III of this Cooperation Agreement. The officials and members of staff of each competent administration of the Region designated by their Government shall have the status of police officer. They take the oath in that capacity. They have the opportunity to be assisted by the ordinary police. Their records have probative value unless proven otherwise.

(2). Each producer and any collective body shall, at the request of the persons referred to in the first paragraph, make available all documents and correspondence and provide, orally or in writing, all information relating to the performance of its obligations under this Cooperation Agreement.

Where the documents and correspondence are held, prepared, issued, received or stored by means of a computerised system, the persons referred to in the first paragraph shall have the right to obtain access to the data placed on data carriers in a legible and intelligible form. The persons referred to in the first paragraph may also request the person mentioned above to make copies in their presence and with their equipment in the form of all or part of the aforementioned data as they wish, as well as to carry out the computer operations deemed necessary to monitor compliance with the obligations of this Cooperation Agreement.

(3). Each producer and any collective body shall be required, at any time and without prior notice, to grant free access to the premises in which the activity is carried out, provided that such premises are not used for habitation, in order to enable the persons referred to in the first paragraph to verify compliance with the obligations of the present Cooperation Agreement. Offices, factories, workshops, shops, garages and premises used as a factory, workshop or warehouse shall be regarded as premises in which an activity is carried out.

Article 38

(1). The producer who is unable to meet its collection and processing objectives and who, by decision of the ERP Decision-Making Body, must transfer its Extended Producer Responsibility to a management body as provided for in Article 10(2), and who fails to do so within a period of three months after the decision of the ERP Decision-Making Body was notified, shall be punished by a fine of EUR 1000 to 2 million.

(2). A producer that has not entrusted its obligations in accordance with Article 26(1) to a collective body and that does not implement its Extended Producer Responsibility on an individual basis in accordance with Article 22 shall be punished by a fine of between EUR 1 000 and EUR 2 million.

BOOK IV – FINAL PROVISIONS AND ENTRY INTO FORCE

Article 39

The ERP Decision-Making Body of the Interregional Commission for the ERP shall:

1° approve, together with the Packaging Board of the Interregional Commission for the ERP, the annual budget proposal to the regional governments;

2° approve, together with the Packaging Decision-Making Body of the Interregional Commission for the ERP, the annual work programme of the Permanent Secretariat, the job description and the annual objectives for the Director and Heads of Service of the Permanent Secretariat and, together with the

Packaging Decision-Making Body of the Interregional Commission for the ERP, prepare the annual evaluation of the Director and Heads of Service of the Permanent Secretariat;

3° together with the Packaging Decision-Making Body of the Interregional Commission for the ERP, determine the organisation chart and rules of internal functioning of the Interregional Commission for the ERP;

4° approve the way which a producer that has not ordered a management body or collective body to carry out its Extended Producer Responsibility fulfils its obligations;

5° advise on the model of accession agreement between the producer and the management body;

6° monitor the plans submitted by the management bodies under Article 9(7), and monitor their implementation;

7° give its opinion on the financial plan of the management bodies;

8° inform the Regions of whether or not the levies as provided for in Articles 13 and 14 apply;

9° announce the public authorities concerned which bear costs due to litter, as well as the costs to be covered for each of these bodies and any other relevant indicators;

10° draw up the assessment forms as provided for in Article 27(2);

11° implement all other tasks imposed on it in this Cooperation Agreement.

Article 40

Within two years of entry into force of the current Cooperation Agreement, the decision-making body of the Interregional Commission of the ERP shall undertake an independent evaluation of the whole system, in particular with the aim of allowing a possible evolution and the continuation of a common system throughout Belgium.

The common system is based on a model in which the public and private parties involved, each on the basis of their own roles and competences, cooperate on the general public cleanliness objective.

Article 41

Within the framework of the Extended Producer Responsibility established by this Cooperation Agreement, the Regional Governments, acting together by means of an executive cooperation agreement, to the extent that they act reasonably, effectively and proportionately, are authorised to unambiguously determine the roles and responsibilities of all relevant actors, including producers, management bodies and collective bodies, public or private waste management operators, local authorities and, where appropriate, re-use and preparation operators and social and solidarity economy businesses.

Article 42

This Cooperation Agreement shall enter into force on 31 December 2023.

Brussels,

The Minister-President of the Flemish Government,
J. Jambon

The Flemish Minister for Justice and Enforcement, Environment, Energy and Tourism,
Z. Demir

The Minister-President of the Walloon Government,
E. Di Rupo

Walloon Minister for Environment, Nature, Forests, Rural Affairs and Animal Welfare,
C. Tellier

The Minister-President of the Brussels-Capital Government,
R. Vervoort

The Minister of the Brussels Capital Government responsible for Climate Transition, Environment,
Energy and Participative Democracy.
A. Maron