COOPERATION AGREEMENT ON THE FRAMEWORK FOR EXTENDED PRODUCER RESPONSIBILITY FOR SPECIFIC WASTE STREAMS AND 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 9 March 2023 on waste, the circular use of materials and public cleanliness 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, among other things, 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, among other things, 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 to be transformed into an Interregional Commission for the UPV, which will consist of two separate decision-making bodies and a joint Permanent Secretariat; that this Interregional Commission for the UPV will play a central role in the implementation of the current cooperation agreement and in monitoring compliance with it;

Whereas waste policy in Belgium must aim to minimise the adverse effects of waste generation and management on human health and the environment; whereas this policy must also focus on reducing the use of natural resources and the practical application of the waste hierarchy as set out in Directive 2008/98/EC;

Whereas the introduction of the concept of ‘extended produder responsibility’ 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 extended producer responsibility because products are placed on the Belgian market and there are no regional sub-markets; whereas the achievement of collection and processing targets, expressed in relation to the quantity placed on the market, can only be controlled and enforced at the national level;

Whereas it is necessary to review the regulations regularly in light of technological developments, as well as changes to social needs and policy insights; whereas, consequently, a mechanism is required to enable national regulations to be adapted swiftly; whereas it has therefore been decided to conclude implementing cooperation agreements for each waste stream, setting out national targets in accordance with European legislation;

Whereas as long as there is no implementing cooperation agreement in place for a certain waste stream implementing extended producer responsibility on the basis of the current cooperation agreement, the applicable regional regulations on extended producer responsibility' for this stream continue to apply in full;

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

Whereas, in accordance with the 'polluter pays' principle and the possibility provided for in Directive 2008/98/EC, the present cooperation agreement seeks to ensure that the costs of waste management are borne entirely by the producers producing the waste streams referred to; whereas those costs should be calculated in such a way as to reflect the total and actual environmental costs of the generation and integral management of the waste;

Whereas the management bodies responsible for the extended producer responsibility of the producers of waste streams listed in Book II of this cooperation agreement that are affiliated to them bear only part of these costs today, leaving part of the costs to the community;

Whereas, as has become increasingly clear, contrary to the prevailing view 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 commercial origin are not only borne in part by businesses other than those responsible for packaging, but that regional policy on prevention, awareness-raising and enforcement means that these costs are also borne in part by the community; 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 certain directives, mean that these residual costs must be correctly allocated to other businesses and the community, namely to the packaging operators themselves; that these residual costs are offset by the introduction of a financial obligation on those responsible for packaging waste of commercial origin to contribute to the policy of the regions;

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

Whereas the current cooperation agreement also aims to make producers responsible for waste streams bear this part of the costs, through the payment by the management bodies of a levy expressed as an amount per inhabitant per year; that the amounts per waste stream were derived, on the one hand, from the levy of €0.50 per inhabitant 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, which were calculated on the basis of balance sheet item 60/61 ('third-party purchases') in the most recent annual accounts of each management body, compared with the same costs at the recognised body for household packaging waste under the aforementioned cooperation agreement of 4 November 2008; that a similar obligation is provided for the recognised body for commercial packaging waste under that cooperation agreement, as the same circumstances also apply there;

Whereas the amounts of the levy are indexed annually;

Whereas the charges for each waste stream covered by this cooperation agreement must 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, consequently, a zero rate currently applies to those waste streams; whereas the intention is to review this cooperation agreement regularly in order to bring it into line with current circumstances;

Whereas producers who have not transferred their extended producer responsibility to a management body bear those costs themselves by drawing up an individual management plan laying down detailed rules for ensuring that those producers contribute to the same extent to the policy as producers who are members of a management body; whereas the same obligation is also laid down for packaging managers 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 commercial origin, since those packaging managers are in the same situation;

Whereas, in a number of cases, an additional levy will be imposed on a management body; whereas this will apply where the management body fails to meet the targets set; that the current text does not opt for criminal penalties or administrative fines, but rather for levies that benefit the policy of the Regions; that failure to meet the targets does, after all, result in additional costs for the community in relation to waste management;

Whereas an additional levy will also apply in cases in which the management body holds excessive reserves, since the management body is expected to demonstrate financial and budgetary efficiency and such excessive reserves represent an unjustified burden on consumers; that the additional levy should encourage the management bodies to make every effort to fulfil the tasks and objectives imposed on them as cost-effectively as possible;

Whereas the standard for the permissible level of reserves depends on the operating costs of the management body for the waste stream concerned; whereas this means the costs included in the annual accounts under the heading ‘operating costs (code 60/66A)’, with the exception of the additions to the facilities (code 635); whereas 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 creation of accounting provisions that are unlawful, intended to serve as ‘de facto’ reserves; whereas, on the other hand, management bodies are also granted autonomy to fulfil their UPV obligations and to conduct their own financial policy as a prudent and reasonable person would; that provisions are only permissible 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 the provisions, based on studies, is required; that it should be noted in this regard that the approval of the accounts by the company’s own auditor is not, in itself, sufficient grounds for accepting that the provisions are justified; that a fair procedure is provided for to have the audit by the company’s own auditor reviewed and supplemented by an independent audit, in accordance with accounting law and the rules of professional conduct, as laid down by the Institute of Company Auditors; that this procedure has proven its effectiveness within the framework of the cooperation agreement of 4 November 2008 concerning the prevention and management of packaging waste for the recognised organisations 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 waste stream 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; that it is solely

the responsibility of the federal legislator to determine the scope of applicability 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 is obliged to transfer its extended producer responsibility to a management body;

Whereas approvals to be granted by the Interregional Commission for the UPV are provided for the management bodies; whereas these approvals relate only to the provisions of the current 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 reasonable obligations that serve the public interest; whereas, in this context, management bodies are also subject to limited reporting and approval obligations vis-à-vis the Interregional Commission for the UPV;

Whereas management bodies must have as their sole statutory objective the implementation of 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 required results in a cost-effective manner; that this extension, however, can only be accepted if there are sufficient guarantees that there is no risk of distortion of competition; that the Interregional Commission for the UPV must have the opportunity to seek relevant advice on this matter, for example from the Belgian Competition Authority, and that the management body must subsequently take into account the comments of the Interregional Commission for the UPV;

Whereas national legislation must not prejudice the powers of the Regions in the field of waste policy to establish the operational framework for the implementation of extended producer responsibility; whereas the interregional framework is therefore limited to matters that can be regulated exclusively at the national level;

Whereas obligations of various kinds are imposed on manufacturers of various products in order to maximise, as far as possible, the environmentally sound collection and treatment of those products; that there nevertheless remain a number of products where, due to the specific nature of the product, the imposition of certain measures is particularly difficult; that nevertheless, the necessary measures must be taken to prevent certain waste materials from being left unattended and becoming litter;

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 preventing and clearing litter must cover the actual and complete costs: however, that this financial contribution may be no higher than the costs required to provide the necessary services in a cost-effective manner; the costs should be limited to the costs for work carried out by or on behalf of public authorities and the Regional Administrations should set them in a transparent manner in line with guidelines published by the European Commission;

Whereas the same obligations are imposed on household packaging waste, through amendments to the cooperation agreement of 4 November 2008 on the prevention and management of packaging waste, as on the other waste streams that are largely responsible for the generation of litter; that,

however, with the introduction of a deposit-refund scheme or an equivalent system, the percentage of household packaging in litter is expected to decrease, making it necessary to provide for a gradual reduction in the levy on household packaging; that, furthermore, it is appropriate to limit the levy on household packaging in an initial phase to those packaging types targeted by the SUP Directive, as well as cigarette packaging and household beverage cans, given their significant presence in litter and the current absence of a deposit-refund system or equivalent scheme;

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, following comprehensive studies carried out on the basis of an assessment of the total and actual 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, distributed across the waste streams based on the Regions' most recent waste composition data; whereas the calculation method was developed in such a way that the costs of preventing, collecting, transport and processing of litter, as well as the costs of monitoring and enforcing the policy, could be determined proportionally per product group; that, however, conditions in the Regions are not entirely comparable; that, moreover, a clear rule for calculating the levy is required;

Whereas the same obligations apply to producers and those responsible for packaging to meet their obligations individually; that, to that end, producers, for waste 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 intention is to review the financial contributions regularly on the basis of fraction counts and a cost assessment, with the Regions endeavouring to apply a uniform method of calculating costs; whereas this cooperation agreement will be amended should it turn out that the financial contributions no longer reflect the actual situation;

Whereas the levy must not have a disproportionately high impact in relation to the economic weight of a sector; whereas, under 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

Section 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.

Section 2. This cooperation agreement has statutory force and applies directly in the Brussels-Capital Region, the Flemish Region and the Walloon Region.

Unless otherwise provided, this cooperation agreement is 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 is without prejudice to the competences of municipalities or agglomerations with regard to public health and safety on public roads. This cooperation agreement applies to the management of waste falling under 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.

Section 3. This cooperation agreement partially implements Chapter VIII of Regulation (EU) 2023/1542 on batteries and waste batteries. The decision-making body UPV and the regional administration, as defined in Article 2, §1, 5° and 20° of this cooperation agreement, are competent authorities in accordance with Article 54(1) of Regulation (EU) 2023/1542.

Article 2

Section 1. For the application of this cooperation agreement, the following terms and definitions apply:

1° 'Electrical and electronic equipment' or 'EEE': devices which depend on electric currents or electromagnetic fields to work properly and devices for the generation, transmission and measurement of such currents and fields and which are intended for use with a voltage rating not exceeding 1,000 volts for alternating current and 1,500 volts for direct current;

2° 'Vehicles': 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;

3° '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 on Belgian territory and resells there, under its own name or trade mark, equipment manufactured by other suppliers; in this context, the reseller is not regarded as a 'manufacturer' where the manufacturer's mark, as defined in point a), is visible on the equipment,
  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 is not considered a 'producer' unless it also acts as a producer within the meaning of points a) to d);
- 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 on Belgian territory and resells there, under its own name or brand, a product manufactured by other suppliers; in this context, the reseller is not regarded as the manufacturer of the product if the manufacturer's brand, as referred to 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 is not considered a 'producer' unless it also acts as a producer as referred to in points a) to e);

4° '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;

5° '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;

6° 'Management body': the non-profit-making association established and financed by the producers, which are responsible for extended producer responsibility as laid down in Book II of this cooperation agreement, of its affiliated producers;

7° '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;

8° '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;

9° 'Provision': a requirement under accounting law that obliges companies to make provisions for events that could have a negative impact on their assets; a provision may only be used to cover the future costs for which it was set aside;

10° 'Levy': the lump sum referred to in Article 8, 13, 14 or 27 of the present cooperation agreement;

11° '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;

12° 'Tyre': any full or pneumatic tyre made of rubber and any other materials, including bandages, excluding bicycle tyres;

13° 'Online marketplace': a digital platform, 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;

14° ‘Administrator of an online marketplace’: any natural or legal person who, whether for consideration or not, organises or manages an online marketplace;

15° ‘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;

16° ‘Solar panel’: an electrical device designed to generate electricity from (sun)light for public, commercial, industrial, rural and residential use; this definition does not include equipment with integrated PV cells whose function is to generate electricity necessary for that equipment to operate;

17° ‘Disposable nappy’: a nappy intended for single use or part thereof;

18° ‘Textiles’: a collective name for 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;

19° ‘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;

20° ‘Regional administration’: the administration designated by the Region;

21° ‘Placing on the market’: making a product available on the Belgian market for the first time;

22° ‘Making available on the market’: any 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);

23° ‘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;

24° ‘Tobacco products’: products with filters that can be consumed and which consist, even if only partly, of tobacco, even if genetically modified as well as filters sold for use in combination with tobacco products;

25° ‘Chewing gum’: flavoured gum, chewed and not intended to be swallowed;

26° ‘Moist wipes’: pre-moistened wipes for personal hygiene or household use;

27° ‘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;

28° ‘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;

29° ‘Litter’: any waste that is left behind, discarded or maintained without complying with the applicable regulations;

30° ‘Regulation (EU) 2023/1542’: Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC.”

Section 2. For purposes of this cooperation agreement, for batteries and waste batteries, the definitions in accordance with Regulation (EU) 2023/1542 apply.
Wherever the term ‘the management body’ appears in this cooperation agreement, it must be understood, in relation to batteries and waste batteries, to mean ‘the producer responsibility organisation’ in accordance with Article 3(1)(49) of Regulation (EU) 2023/1542.

Article 3

This cooperation agreement has the following objectives:

1° The establishment of a national framework for the implementation of 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 among the population with the aim of preventing litter.

Section 2 – The ERP Decision-Making Body

Article 4

Section 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 the ‘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;”*

Section 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 are amended to *‘Interregional Commission for the ERP’.*

Section 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 92bis of the Special Law of 8 August 1980 on the reform of the institutions, the name of which is changed to the ‘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 appoints three full members and three alternate members for both sections. 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 the '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 is 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 ten times a year, as well as at the request of a member. Each division is only valid if the three regions are represented.

The members of each section of the Interregional Commission's decision-making body for the ERP appoints 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 is 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

Section 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.

Section 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.".

Section 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 EXTENDED PRODUCER RESPONSIBILITY FOR CERTAIN WASTE STREAMS

Section 1. Extended producer responsibility

Article 7

Section 1. Producers have extended producer responsibility for the following waste streams:

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

In accordance with Regulation (EU) 2023/1542 on batteries and waste batteries, producers are subject to extended producer responsibility for the waste stream of batteries. This regulation sets out the objectives and obligations regarding collection, recycling rates, material recovery, reuse, preparation for reuse, repurposing, preparation for repurposing, prevention, information provision and reporting. Where appropriate, the Regions may, by means of an executive cooperation agreement, impose the additional rules and obligations provided for in the aforementioned regulation, as well as additional rules and obligations relating to:
1° Establishing the register of producers in accordance with Article 55 of Regulation (EU) 2023/1542 and providing the necessary data;
2° The modalities and procedural requirements for the registration and approval of producers and producer responsibility organisations, in accordance with Articles 55 and 58 of Regulation (EU) 2023/1542;
3° Further developing the non-discriminatory selection procedure, in accordance with Article 57(8) of Regulation (EU) 2023/1542, and verifying that candidates comply with environmental regulations, including the objectives of Article 71 of Regulation (EU) 2023/1542;
4° Practical modalities for the financing of extended producer responsibility, including the elaboration of the extended producer responsibility guarantee, in accordance with Article 58(7) of Regulation (EU) 2023/1542;
5° Determining the arrangements for the collection of waste batteries, including the provision of information on the take-back and collection system and establishing a scheme for the management of waste batteries in which the producer cannot be identified or no longer exists and for cooperation with and remuneration of public-law legal entities that are territorially responsible for the management of household waste;
6 ° Determining further modalities with regard to the processing of waste batteries;
7° The implementation of additional measures relating to prevention and sensitisation;
8° The implementation of additional reporting requirements and procedures for setting up the electronic system and the reporting template in accordance with Articles 75 and 76 of Regulation (EU) 2023/1542.

For each of the waste streams referred to in the first paragraph, extended producer responsibility measures will be imposed where appropriate on producers by means of an executive cooperation agreement. These measures may consist in the implementation of one or more rules and obligations relating to:
1° Achieving targets for the collection and processing of waste resulting from products placed on the market by producers;
2° Achieving targets relating to prevention, reuse, repair and preparation for reuse;
3° Achieving targets for the support and development of reuse activities carried out by companies with a social purpose established in the territory of the Regions.

The executive cooperation agreement will determine when the targets and obligations set out in Articles 9 and 10 enter into force and will specify the indicators for the evaluation of the systems put in place.

Producers can unite for each waste stream into one or more management bodies, who assume extended producer responsibility for their affiliated producers.

Section 2. If several management bodies are set up for the same stream, the management bodies are required to establish a coordination body, whose tasks include determining the market share of each management body for a specific calendar year. The market share of a management body in a given calendar year N is the sum of the market share of producer affiliated with the management body, as established at the end of the previous calendar year N-1. The market share of a producer is expressed as a percentage calculated by dividing the number of household packaging items placed on the market by the producer from which the relevant waste stream originates, divided by the total number of products placed on the market from which the waste stream in question originates, and then multiplied by a factor of one hundred.

The UPV decision-making body ensures that the activities of the management bodies cover the entire territory and that the management bodies fulfil their obligations in a coordinated manner.

Section 3. If a producer has entrusted the implementation of its obligations under Book II of this cooperation agreement, and for waste batteries also the obligations under Regulation (EU) 2023/1542, to a management body, an accession agreement is concluded between the producer and the management body.

The accession agreement ensures that there is no discrimination or distortion of competition between producers and specifies the dissolution procedures and exclusion mechanisms. It contains the necessary provisions to ensure the financing of the implementation of extended producer responsibility for the products placed on the market during the duration of the accession agreement.

The type-accession agreement is subjected beforehand to the opinion of the ERP decision-making body. The ERP decision-making body has three months to give an opinion. During the time 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.

Section 4. For the waste streams specified in Article 8, extended producer responsibility also imposes a financial obligation on the management bodies to contribute to the policies of the Regions.

Article 8

Section 1. Waste streams ‘EEE, excluding solar panels’, ‘Solar panels’, ‘Batteries’, ‘Vehicles’, ‘Oil’, ‘Tyres’, ‘Mattresses’, ‘Furniture’, ‘Textiles’ and ‘Disposable nappies’ are subject to a financial obligation in the form of a levy for the management bodies per calendar year; this should contribute to the financing of the Regions’ policy on the prevention and management of the waste concerned.

The levy in relation to a specific calendar year 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 from the Federal Public Service Economy, SMEs, Self-Employed and Energy, available on 1 January of the aforementioned calendar year.

If, on the last day of a calendar year, there are several management bodies for the same waste stream, the levy for that calendar year is borne by each management body in proportion to its market share, as determined in accordance with Article 7(2)(1).

The levy amounts to:

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

The amounts per capita are adjusted annually in line with the health index of consumer prices, the base index being the average of the figures of the health index of consumer prices of the four first months of the previous year.

The indexed amounts are rounded to the next or previous tenth euro cents, depending on whether or not the figure of the hundredth euro cent reaches five.

The amounts of the levy are reduced by the amounts corresponding to the combined market share of the producers fulfilling their obligations under Article 9(10) on an individual basis.

The levy is only owed if the calculated levy is at least EUR 500.

Section 2. The Region’s policy on the prevention and management of the waste concerned may include:

- prevention and reuse of the waste concerned;
- 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;
- improvement of the results and/or quality of the selective collections of the waste concerned;
- non-selective collection and processing of the waste concerned;
- reimbursement of staff responsible for monitoring, implementing and following up on the above actions;
- reporting and evaluation of this waste;
- promotion of local and high-quality processing in the context of a circular economy.

The global amounts of the levy are 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 calendar year to which the levy applies.

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

Section 3. Each coordination body and, for the waste streams for which no coordination body is established, every management body reports to the Interregional Commission for EPR, with regard to a given calendar year N, no later than 1 March of the year following that calendar year, the quantities of the products placed on the market by members the management body in calendar year N-1 to which the levy applies. The Interregional Commission for EPR then determines, for year N on the basis of the figures for year N-1, the market share of the management body, as determined in accordance with Article 7(2)/1) and communicates the specific amounts to be paid by the management body within 30 days. The levy is paid annually by 15 April in year N+1 by means of bank transfer to the account numbers communicated by each region.

The levy is payable for the first time in respect of a particular waste stream in the calendar year following the calendar year in which the implementing cooperation agreement referred to in Article 7(1) entered into force.

Article 9

Section 1. The management body designated under Book II of this cooperation agreement and for waste batteries within the framework of Regulation (EU) 2023/1542, were designated to implement extended producer responsibility for the producers affiliated with 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 implementing 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 directors or persons authorised to bind the association must not, within the last five years, have been penalised for a breach of regional environmental legislation resulting in a custodial sentence or an administrative or criminal fine exceeding EUR 10,000;

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

Section 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 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 takes into account the comments of the ERP decision-making body, which may request the necessary opinions to this end.

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

Every year, the management body provides the ERP decision-making body with a global overview of its activities, including the activities carried out that fall under this section; this also includes an overview of the situation of this activity on the global market.

Section 3. The management body is 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 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 for waste batteries in line with the obligations of Regulation (EU) 2023/1542 (Article 56(4)), and to differentiate, where possible, on the basis of harmonised criteria and in accordance with European law, to differentiate for waste batteries in line with Regulation (EU) 2023/1542 (Article 57(2)), 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 processing of the waste, the environmental and social conditions under which 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 UPV decision-making body, ensuring the confidentiality of confidential business data, and substantiation of the results with independent auditing or certification; for waste batteries, the reporting includes at least the data in accordance with Article 75 of Regulation (EU) 2023/1542 and the information referred to in Article 76 of Regulation (EU) 2023/1542; the detailed rules are determined in the implementing cooperation agreement, where applicable;

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 guarantee corresponding to the estimated costs of assuming extended producer responsibility for a period of at least nine months and, for waste batteries, a guarantee in accordance with Article 58 (7) of Regulation (EU) 2023/1542, corresponding to the estimated costs of assuming extended producer responsibility for a period of at least nine months.

Section 4. The implementation of 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 and for waste batteries, Regulation (EU) 2023/1542, 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;

- If different actors are required to cooperate for the management of activities, this management must 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;

- Meetings of the management board and the general assembly of the management body are open to observers from the regional administrations; observers have access to the same information as the other participants in the meeting;

- The management body implements quality-control procedures through one or more impartial and independent external third parties that evaluate in particular the following:
    - The quality of the quantitative data;
    - The objectivity and impartiality of the studies being carried out;
    - Compliance with the elements of extended producer responsibility;
    - Financial data;

  And, where appropriate, formulate proposals on how to improve it;

- The management body implements a policy for the management of potential conflicts of interest; this policy is elaborated by the existing management bodies within six months of the entry into force of the objectives of the current cooperation agreement and elaborated by new management bodies within six months of their establishment; in particular, in the event of a conflict of interest on the part of a person participating in the evaluation, the follow-up of the award procedure and/or the decision to award a contract by the management body, it must refrain from any intervention in the evaluation and/or decision-making;

- The managing body organises a discussion forum with the regional administrations and with all organisations representing the stakeholders involved in the implementation of extended producer responsibility, including representatives of the social economy, consumer associations and environmental organisations; the discussion forum meets at least once a year following the presentation of the approved annual report; the management body also

presents current and future actions; a report on each meeting of the discussion forum is sent to all parties;

- The management body actively participates in the meetings of the monitoring committee organised, where appropriate, by the UPV decision-making body, in principle on an annual basis; the primary purpose of this monitoring committee is to verify the proper implementation of extended producer responsibility; the essential elements of the management of the waste stream by the management body are discussed there, as are the initiatives of the Regions; the agenda of the meeting is set by the UPV decision-making body in consultation with the management bodies; each meeting of the monitoring committee is the subject of a report drawn up by the EPR decision-making body;

- If the management body itself is responsible for the allocation of markets for the collection, sorting, processing and recycling of the waste, these markets are allocated by the management body on the basis of specifications and a non-discriminatory selection procedure on the basis of transparent award criteria; for the preparation of the specifications and the market allocation procedure, the management body consults the territorially competent legal persons of public law, the organisations representing waste management companies, the organisations of businesses of the social economy active in the reuse and preparation for re-use and consumer organisations; in order to facilitate these consultations, the management body may set up a 'mixed committee' for the allocation of the markets, composed of representatives of the management body, of the territorially competent legal persons of public law, of the organisations representing waste management companies, of the organisations of businesses of the social economy active in the re-use and preparation for re-use, and of the consumer organisations; the joint committee lays down its operating rules in internal rules; the reports of the consultation meetings or of the meetings of the joint committee are submitted to the ERP decision-making body; the specifications and the procedure for the allocation of the markets are submitted to the ERP decision-making body for approval.

Section 5. To the extent that 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 entity governed by public law with territorial responsibility for household waste; to this end, a model agreement is drawn up in consultation with the local authorities, which must 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 takes into account, among other things, the maximum storage capacity of retailers and recycling parks and optimises the safety and ergonomics of storage, preservation, preparation for reuse and actual reuse; in the choice of packaging and collection containers, the principles of eco-design and use of recycled content are pursued to the maximum extent;

4° set up a sufficiently geographically dispersed network of collection points and regularly collect from those collection points all waste subject to extended producer responsibility that originates from its products; this collection must always be free of charge for the collection points, unless otherwise provided for in the executive cooperation agreement;

5° guarantee that citizens 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.

For points 1°, 4° and 5° above, for waste batteries, reference is made to Articles 59 to 61 of Regulation (EU) 2023/1542.

Section 6. To the extent that extended producer responsibility relates to corporate waste, the management body must:

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 must 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.

Section 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 are made to the whole of the conditions set out in the first to six paragraphs. The executive cooperation agreement may lay down the modalities for further specifying this provision.

The ERP decision-making body verifies within a period of six months whether the application for approval of the management body fulfils all the conditions set out in the first to sixth paragraphs. Where appropriate, the ERP decision-making body grants approval to the management body, which may also contain adjustment measures to which the management body must adhere. The recognition may include additional target values to be addressed by the management body.

The ERP decision-making body also ensures that the management body continues to comply with all the conditions set out in the first to sixth paragraphs. 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 draws up a summary evaluation note and a strategic

orientation note for any new recognition for the attention of the representatives of the regional governments.

Section 8. In the case of waste batteries, the authorisation referred to in Section 7 should be understood as approval in accordance with Article 58 of Regulation (EU) 2023/1542. In addition, the application for approval must meet the requirements of Regulation (EU) 2023/1542 and be processed within the period referred to in Article 58(3). The administrative and procedural rules for the approval of producer responsibility organisations in accordance with Article 58 of Regulation (EU) 2023/1542 is specified where appropriate in the implementing cooperation agreement or, in the absence of an implementing cooperation agreement, in the regional regulations.

Section 9. 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 two years thereafter, the coordination body referred to in Article 7(2) informs the ERP decision-making body of the way in which it intends to carry out its coordination task.

Where appropriate, the ERP decision-making body formulates corrective measures to which the coordination body must comply.

Section 10. A producer who has not transferred its extended producer responsibility to a management body must also comply individually with the obligations set out in §3, 1°, 2°, 3°, 5°, 6°, 8°, 10°, 11°, 12°, 13°, 14°, 15° and 16° and, for waste batteries, also with the obligations in accordance with Regulation (EU) 2023/1543, while guaranteeing that no costs resulting from extended producer responsibility for products placed on the market by it will be passed on to other producers. The producer must also contribute in respect of each calendar year by means of a levy to the policy of the Regions on the prevention and management of the waste concerned, as described in Article 8, determined in accordance with Article 7(2)(1). Specifically, in respect of each calendar year N, the producer will be liable to pay a levy on the basis of the waste streams and calculated on the basis of the amounts per inhabitant in accordance with Article 8(1), albeit in proportion to its market share for the previous calendar year N-1 and provided that the calculated levy is at least EUR 500.

Each producer reports to the Interregional Commission for EPR, in respect of a given calendar year N, no later than 1 March of the year following that calendar year, the numbers of packages subject to the levy that it placed on the market in calendar year N-1. The Interregional Commission for EPR then determines the market share of the producer for year N based on the numbers in year N-1 and, as determined in accordance with Article 7(2)(1), and communicates the specific amount to be paid within 30 days. The levy is paid annually by 15 April in year N+1 by means of bank transfer to the account numbers communicated by each region.

The levy is payable for the first time in respect of a particular waste stream in the calendar year following the calendar year in which the implementing cooperation agreement referred to in Article 7(1) entered into force.
In its individual management plan, the producer indicates how it will contribute to the policies of the Regions.

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 verifies within a period of six months whether the individual management plan fulfils the obligations laid down in the first paragraph 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.

Section 11. In the case of waste batteries, the individual management plan referred to in Section 10 is deemed to constitute approval, in accordance with Article 58 of Regulation (EU) 2023/1542. The application for approval must also comply with the requirements of Regulation (EU) 2023/1542 and will be processed within the time limit specified in Article 58(3) of that regulation. The administrative and procedural rules for the approval of producer responsibility organisations in accordance with Article 58 of Regulation (EU) 2023/1542 is specified where appropriate in the implementing cooperation agreement or, in the absence of an implementing cooperation agreement, in the regional regulations.

Article 10

Section 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 reports 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 is 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 examines whether the collection and processing objectives set out in this cooperation agreement are being met.

Section 2. A producer who has not transferred its extended producer responsibility to a management body must achieve the collection objective and/or processing objective referred to in Article 7(1). They must 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 report is carried out annually by a date specified in the executive cooperation agreement referred to in Article 7(1).

On the basis of the producer’s report, the ERP decision-making body examines whether the collection and processing objectives set out in this cooperation agreement or, for waste batteries, in Regulation (EU) 2023/1542, are being met.

A producer who does not achieve its collection and processing targets will still have to transfer its extended producer responsibility to an management body.

Section 3. The detailed arrangements for the reports referred to in Sections 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 implementing cooperation agreement may also provide for additional reporting requirements in relation to the waste stream in question under the extended producer responsibility scheme and set out the relevant procedures; this concerns reporting to the government or a system designated by the government, by specific parties, in accordance with Article 41.

Section 4. For waste batteries, in addition to Sections 1 and 2, the data in accordance with Article 75 of Regulation (EU) 2023/1542 must reported within the period referred to in Article 75(7) of this regulation.

The UPV decision-making body, or the organisation appointed by the UPV decision-making body, sets up an electronic system through which data is reported to them in accordance with Article 75(8) of the

regulation and specifies the templates to be used. Producer responsibility organisations, and producers who have not transferred their extended producer responsibility to a producer responsibility organisation, may be asked to develop and finance this electronic system.

The executive cooperation agreement defines the administrative and procedural rules for the collection of data on batteries and waste batteries, including the electronic system.

The executive cooperation agreement lays down the necessary measures to ensure, in accordance with Article 69 of Regulation (EU) 2023/1542, that the applicable collection targets are met.

In the absence of an executive cooperation agreement, the Regions determine the administrative and procedural rules.

Article 11

Section 1. The operator of an online marketplace is 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 extended producer responsibility.

Section 2. The operator of an online marketplace prevents 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 requires 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(-ies) 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(-ies) 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 has to bear the obligations under extended producer responsibility to which that producer is normally held.

The administrator of an online marketplace provides 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(-ies) concerned.

Section 3. If the operator of an online marketplace also acts as a producer, it is also subject to the obligations relating to extended producer responsibility for the products it sells personally.

Section 4. Sections 1-3 enter into force one year after the entry into force of the current cooperation agreement.

Article 12

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

1° The budget;

2° The calculation of any financial contributions of the members, which are uniform on the Belgian territory;
3° The policy on the use of members' financial contributions;
4° The policy on commissions and reserves, whereby reserves may correspond at most to the operating costs of the management body for the waste stream concerned for 18 months and where commissions are only possible to the extent that they are permitted by accounting law and are duly justified in the light of market instability, which is demonstrated by an annual detailed study of current and future markets to be updated; the justification is supported by the annual audit of the annual accounts of the management body by the supervisory board, 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.

Section 2. The budget includes, as a separate component, the means by 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).

Section 3. The financial plan is 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. During the time 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 examines, 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 appointed by the ERP decision-making body, shows that certain commissions are not justified under accounting law or that the justification for certain commissions cannot be established due to a lack of justification, the ERP decision-making body may suspend or withdraw the recognition referred to in Article 9(7) after first giving 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 will be heard prior to the final decision to suspend or withdraw the recognition.

Article 13

Section 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 pays 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 will be increased to EUR 100 per tonne started and from the third successive year, the amounts of the levy will 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).

Section 2. If the collection and processing objectives have not been met, the ERP decision-making body communicates the additional charges to be paid per Region to the management body.

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

Article 14

Section 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 18 months, an additional charge of 10% will be imposed on the part of the reserves exceeding this standard.

In an implementation cooperation agreement as referred to in Article 7(1), the rate of the additional levy referred to in the first paragraph may be reduced to a maximum of 5% for a period of up to three years in the case of a waste stream arising from products with an average lifespan of more than 15 years.

This additional levy should contribute to the financing of the regional policy on the prevention and management of the relevant waste. The provisions of Article 8(2) apply.

Section 2. If the reserves are higher than the standard referred to in Section 1, the ERP decision-making body will communicate the additional charges to be paid per Region to the management body.

The levy must be paid within three months of the end of the financial year in which the reserves exceed the threshold referred to in Section 1, by transfer to the bank account number provided by each Region.

Section 2 – Register and authorised representative

Article 15

Section 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 within six months after the current cooperation agreement enters into force. If the register contains personal data, it will not be made public.

Section 2. The register referred to in the first paragraph of this article contains 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, phone 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.
9. Any other useful information on the activities of the producer in Belgium, which does not contain any personal data.

Section 3. By way of derogation from the first and second paragraphs, the producer register for waste batteries is drawn up in accordance with Article 55 of Regulation (EU) 2023/1542. The register of producers is drawn up by the ERP decision-making body or by an organisation appointed by the ERP decision-making body. The implementing cooperation agreement will also include provisions on the registration of producers in accordance with Regulation (EU) 2023/1542.

Article 16

Section 1. The producer established outside Belgian territory may appoint a natural or legal person established in Belgium as an authorised representative to be responsible for compliance with the obligations incumbent on the producer under this cooperation agreement.

Each producer established outside Belgian territory, who remotely 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 be responsible for compliance with the obligations incumbent on the producer under this cooperation agreement.

Section 2. The appointment of an authorised representative takes place by means of a written mandate. When the mandate expires, the authorised representative and the producer must inform the government within the month following the end of the mandate.

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

Section 4. In accordance with Article 56(3) of Regulation (EU) 2023/1542, the appointment of an authorised representative for extended producer responsibility is mandatory for a producer as defined in Article 3, point 47)d, of this regulation.

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 waste processing;
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 14bis is added with the following text:

'***Article 14bis.*** *Section 1. The 'packaging waste of commercial origin' waste stream is subject to a financial obligation in the form of a levy for the recognised body; this must contribute to the financing of the regions' 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 from the Federal Public Service Economy, SMEs, Self-Employed and Energy, available on 1 January of the same year.

If there are several recognised bodies, the levy is borne by each recognised body in proportion to its market share. The market share of a recognised body in a given calendar year N is the sum of the market share of producer affiliated with the recognised body, as established at the end of the previous calendar year N-1. The market share of the party responsible for packaging is expressed as a percentage calculated by dividing the number of commercial packaging items placed on the market by the party responsible for packaging from which the relevant waste stream originates, divided by the total number of commercial packaging products placed on the market from which the waste stream in question originates, and then multiplied by a factor of one hundred.

Each recognised body reports to the Interregional Commission for EPR, with regard to a given calendar year N, no later than 1 March of the year following calendar year N+1 following that calendar year, the quantities of packaging placed on the market by its members in calendar year N-1. The Interregional Commission for EPR then determines, for year N on the basis of the quantities for calendar year N-1, the market share of the recognised organisation, as determined in accordance with the previous paragraph, and communicates the specific amounts to be paid by the recognised body by 1 April of calendar year N+1. The levy is paid annually by 15 April in calendar year N+1 by means of bank transfer to the account numbers communicated by each region.

The levy is payable for the first time in respect of the calendar year 2026.

The levy is EUR 0.040/resident.

The amounts per capita are adjusted annually in line with the health index of consumer prices, the base index being the average of the figures of the health index of consumer prices of the four first months of the previous year.

The indexed amounts are rounded to the next or previous tenth euro cents, depending on whether or not the figure of the hundredth euro cent reaches five.

The amounts of the levy are reduced by the amounts corresponding to the combined market share of the packaging operators who fulfil their obligations on an individual basis pursuant to Article 7.

The levy is only owed if the calculated levy is at least EUR 500.

Section 2. The regions' policy on the prevention and management of the waste concerned may include:

- *prevention and reuse of the waste concerned;*
- *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;*
- *improvement of the results and/or quality of the selective collections of the waste concerned;*
- *non-selective collection and processing of the waste concerned;*
- *reimbursement of staff responsible for monitoring, implementing and following up on the above actions;*
- *reporting and evaluation of this waste;*
- *promotion of local and high-quality processing in the context of a circular economy.*

The global amounts of the levy are 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 determines, after consulting the approved bodies concerned, the specific uses of the amounts they have received."

BOOK III – PROVISIONS ON EXTENDED PRODUCER RESPONSIBILITY FOR LITTER

Section 1 – Scope

Article 19

Section 1. Book III of this cooperation agreement applies to the following waste materials:

1° Tobacco products;
2° Chewing gum;
3° Moist wipes;
4° Balloons.

Section 2. With Book III of the present cooperation agreement, a scheme for extended producer responsibility is introduced for the waste referred to in Section 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 tobacco products, moist wipes and balloons, and for the subsequent transport and processing of such litter in accordance with regional provisions;
3° Collecting waste from products discarded in the public collection systems, including the costs for 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° Collecting 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.

Section 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 appoints an authorised representative in that Member State. The authorised representative is 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.

Subsection 2.1 – Individual implementation

Article 22

Section 1. A producer wishing to implement its extended producer responsibility on an individual basis must submit an 'individual litter management plan' to the ERP decision-making body for approval. entails implementing its extended producer responsibility on an individual basis on litter.

Section 2. The 'individual litter management plan' includes 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. Phone 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 job title of the signatory of the application;
2° Object:
   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, complies with the extended producer responsibility scheme imposed in Book III of this cooperation agreement. This management plan specifies in detail how the producer will 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), 1°-4°.
The second option concerns a levy to be paid all government authorities that bear these costs. This levy must be proportionate to the market share of the producer, calculated in accordance with Article 27(1)/15) and is payable only to the extent that the calculated levy amounts to at least EUR 500.
Each producer reports to the Interregional Commission for EPR, in respect of a given calendar year N, no later than 1 March of the year following that calendar year N+1, the numbers of packages subject to the levy that it placed on the market in calendar year N-1. The Interregional Commission for EPR then determines, for year N on the basis of the quantities for calendar year N-1, the market share of the producer, as determined in accordance with Article 27, and communicates the specific amounts to be paid by the producer by 1 April of calendar year N+1. The levy is divided between the Regions on the basis of the distribution key that can be derived from the amounts per Region included in Article 27(1), second paragraph. The levy is paid annually by 15 April in calendar year N+1 by means of bank transfer to the account numbers communicated by each region. Each Region is responsible for the further distribution of the levy to all public authorities bearing these costs on its territory. An advance payment of 50% of the estimated levy due for calendar year N must be made by 15 April of calendar year N at the latest; this amount is based on the estimated number of products subject to the levy that were placed on the market by the producer in calendar year N-1. For this purpose, on 1 March of calendar year N, the producer reports the estimated quantities of calendar year N-1. The levy is payable for the first time in respect of the calendar year 2026.

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 is implemented effectively.

Section 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, as well as on how it implements its ‘individual litter management plan’ and the obligations of this cooperation agreement.

Article 23

Section 1. The ‘individual litter management plan’ referred to in Article 22 is 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 informs 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 informs the applicant within 30 calendar days of the submission or completion of the management plan;

3° Within a period of four months, starting from the date on which it was ascertained that the management plan was complete, the ERP decision-making body delivers their findings on the management plan; within four months the ERP decision-making body can request all explanations and information required for the evaluation of the contents of the management plan;

4° The ERP decision-making body submits its decision to approve or reject the management plan to the applicant within ten calendar days of the decision.

Section 2. For each ‘individual litter management plan’ a file fee of EUR 250 will be charged, payable upon submission of the management plan. The period for examination of completeness starts only after receipt of the file cost.

Section 3. The approval referred to in Section 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 is 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° After hearing from the producer concerned, it will 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 is informed of the proposed decision and its grounds by registered letter at least fourteen days before it will be served. During such period, the beneficiary of the approval may raise objections or make the required adjustments.

Article 25

Section 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° Place of residence, address and phone 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° Subject of the management plan;
4° Commitments in the management plan.

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

Subsection 2.2 – Collective implementation

Article 26

Section 1. A producer who wishes to implement its extended producer responsibility on a collective basis must, directly or through a natural or legal person authorised to represent the producer, join a collective body.

Section 2. A collective body that may be ordered by producers to fulfil their obligations must be a legal person who 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° Have administrators or the persons who can bind the association must possess their civil and political rights;
5° Have directors or persons authorised to bind the association must not, within the last five years, have been convicted of an offence under the environmental legislation of the Regions resulting in a custodial sentence or an administrative or criminal fine exceeding EUR 10,000;
6° Have the necessary resources to fulfil the statutory purpose;
7° Be active in the three Regions.

Section 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° guarantee 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 contributions from contractors in a non-discriminatory manner, taking into account, where appropriate, the environmental impact of the products, such as their plastic content, in order to cover the actual and full costs of the obligations incumbent upon it under this agreement;
8° entrust the annual filing to the ERP decision-making body of the balance sheets and profit and loss accounts for the previous financial year within a period of one month after the end of the financial year, and, by 1 November, of the budget for the following year relating to this cooperation agreement.

Article 27

Section 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 must cover the total and real costs of the public authorities concerned by the annual payment of a levy in the following amounts to the Regions (financial option), which correspond to the total and real costs of all public authorities:

1° From the 2026 declaration year, for litter of tobacco products: EUR 53,991,135.09, consisting of an amount of EUR 17,520,164.14 for the Brussels-Capital Region, an amount of EUR 12,084,250.86 for the Walloon Region and an amount of EUR 24,386,720.09 for the Flemish Region;
2° From the 2026 declaration year, for litter of wet wipes: EUR 2,342,340.42, consisting of an amount of EUR 760,091.29 for the Brussels-Capital Region, an amount of EUR 524,260.72 for the Walloon Region and an amount of EUR 1,057,988.41 for the Flemish Region;

3° From the 2026 declaration year, for litter of balloons: EUR 148,331.27, consisting of the amount of EUR 48,133.48 for the Brussels-Capital Region, the amount of EUR 33,199.29 for the Walloon Region and the amount of EUR 66,998.50 for the Flemish Region.

If several collective bodies are established for the same waste stream, the levy is borne by each collective body in proportion to its market share, which is determined in accordance with Article 16.

The amounts of the levy are reduced by the amounts corresponding to the combined market share of the producers implementing on an individual basis their obligations under Subsection 2.1, which are determined in accordance with the 16th paragraph.

The levy is only owed if the calculated levy is at least EUR 500.

To the extent that the collective body, together with the relevant government agencies, has opted for the organisational and financial take-back of litter, the levy does not apply to that share.

The Interregional Commission for the ERP ensures 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°.

The amounts are adjusted annually in line with the health index of consumer prices, the base index being the average of the figures of the health index of consumer prices of the four first months of the previous year.

To the extent that the collective body, together with the public authorities concerned, has not opted for the organisational and financial take-back of litter and the levy provided for in the second paragraph is paid, the Regions undertake to measure the efficiency of the actions financed by the collected levies, by using performance indicators.

Within two years of the entry into force of the current cooperation agreement, the ERP Interregional Commission, together with the competent regional administrations, carries out an evaluation of the amounts of the levy, as set out in the second paragraph, 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 calendar year 2029. An evaluation of this type will subsequently take 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 submits its application for recognition to the ERP decision-making body or the mandate will 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 requests 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 draws 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 persons 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 general costs; this model contract must be drawn up together with these 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;
- Establishment of 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 being violated;
- the government's policy to discourage the use of one-off packaging being hindered.

If several collective bodies are set up for the same stream, the collective body is required to set up a coordination body whose task is, among other things, to take note of the market share of each collective body for a given calendar year. The market share of a collective body in a given calendar year N is the sum of the market share of producer affiliated with the collective body, as established at the end of the previous calendar year N-1. The market share of a producer is expressed as a percentage calculated by dividing the number of household packaging items placed on the market by the producer from which the relevant litter originates, divided by the total number of products placed on the market from which the litter in question originates, and then multiplied by a factor of one hundred.

Section 2. Each coordinating body and, for waste streams for which no coordinating body has been established, each collective body reports to the ERP Interregional Commission, in respect of a given calendar year N, no later than 1 March of the calendar year N+1 following that calendar year, the quantities of products subject to the levy placed on the market by the members of the collective bodies in the calendar year N-1. The ERP Interregional Commission then determines the market share of each collective body for calendar year N, on the basis of the numbers in calendar year N-1, as determined in accordance with the first paragraph, sixteenth paragraph, and communicates by 1 April of calendar year N+1 the amounts actually payable by each collective body by means of a form. The levy is paid annually by 15 April in calendar year N+1 by means of bank transfer to the account numbers communicated by each region. Each region is responsible for the further distribution of the levy to the public authorities that bear the costs referred to in Article 19(2), 1°-5°, within its territory. By 15 April of calendar year N at the latest, an advance payment of 50% of the estimated levy due for calendar year N must be made; this is based on the estimated number of products subject to the levy that were placed on the market by the members of the collective bodies in calendar year N-1. For this purpose, on 1 March of calendar year N, the coordination body or each collective body reports the estimated numbers of calendar year N-1.

The levy is payable for the first time in respect of the calendar year 2026.

The form referred to in the first paragraph contains the following information:

1° The amounts claimed by region or public authority concerned;
2° The account numbers to which the amounts must be transferred.

For the calendar year 2026 and for each Region, the amount of any voluntary financial contribution made available by producers to the regions in the context of the litter policy is deducted from the amounts referred to in Section 1(2) of this article.

Section 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 is 10% of the unpaid amount. The fine belongs to the Regions and is distributed on the basis of the distribution key that can be derived from the amounts per Region included in Article 27(1), second paragraph.

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

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

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

Section 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 2026. The modalities of this commitment and the balanced distribution of actions at national and regional level is 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 waste streams, 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) is reduced by the amounts corresponding to the percentage of the total costs of the public authorities that 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 ensures 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 are 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 examines 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 a auditor or external auditor who appoints it. If the collective body has not designated auditors, this task will 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 examines 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 will take measures to educate consumers and promote responsible consumer behaviour, with a view to reducing litter of products covered by this cooperation agreement, they will 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

Section 1. The collective body is required to communicate annually, by 1 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 financial data used for the calculation of contributions.

Section 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

Section 1. In Article 10(2) 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 7°.

Section 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*;
- *Establishment of new models (such as Green Deals)*;
- *The reporting and control method to evaluate the efficiency of the system established."*.

Article 36

Section 1. In Article 7 of the cooperation agreement of 4 November 2008 on the prevention and management of packaging waste, Section 3 is added, with the following text:

"Section 3. The party responsible for packaging, as referred to in the first paragraph of this article, takes 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 must include the agreement of the government authorities responsible for the management of litter from household packaging 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 elements of the litter policy stated in Article 13(1), 15°, 1°-3°. The second option concerns reimbursement to all government authorities that bear these costs. That remuneration must be proportionate to its market share, as provided for in Section 4.

The packaging manager provides a description of how they will comply with this obligation.

This section applies solely to those responsible for packaging who place the following packaging on the market: packaging covered by the SUP Directive, cigarette packaging and household beverage cans."

Section 2. In Article 7 of the cooperation agreement of 4 November 2008 on the prevention and management of packaging waste, Section 4 is added, with the following text:

"Section 4. The party responsible for packaging as referred to in the first paragraph of this article, must contribute, in respect of each calendar year N, by means of a levy proportionate to its market share in the previous calendar year N-1, to the regions' policy on the prevention and management of packaging waste.

More specifically, in relation to each calendar year N, the producer will have to pay a levy calculated on the basis of the amount per inhabitant in Article 13(1) 12° for the waste stream of household packaging waste and in Article 14bis for the waste stream of commercial packaging waste, albeit in proportion to its market share in calendar year N-1 and to the extent that the calculated levy per waste stream is at least EUR 500.

Each party responsible for packaging reports to the Interregional Commission for EPR, in respect of a given calendar year N, no later than 1 March of the year following that calendar year, the quantity of packaging subject to the levy that it placed on the market in calendar year N-1. The Interregional Commission for EPR then determines, for calendar year N, on the basis of the figures for calendar year N-1, the market share of the packaging responsible party, as defined in accordance with Article 13(1), 14°(5), for packaging waste of domestic origin and in accordance with Article 14bis(1)(3) for packaging waste of commercial origin and communicate the specific amount to be paid by 1 April of calendar year N+1. The levy is paid annually by 15 April in calendar year N+1 by means of bank transfer to the account numbers communicated by each region.

The levy is payable for the first time in respect of the calendar year 2026.".

Section 3. In Article 10 of the cooperation agreement of 4 November 2008 on the prevention and management of packaging waste, Section 5 is added, with the following text:

"Section 5. Four years after the entry into force of each approval, the packaging decision-making body draws up a summary evaluation note and a strategic orientation note for any new approval for the benefit of the representatives of the regional governments."

Section 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;*
- *The verification and monitoring of the objectives of this cooperation agreement;*
- *The fight against the presence of packaging in litter and in illegal dumping;*
- *Remuneration of the staff responsible for monitoring, implementing and monitoring the above-mentioned actions."*

Section 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°.

Section 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°, and to the extent that the members of the recognised body do not fulfil this obligation through another legal person established for this purpose, from calendar year 2026, bear the costs provided for in point 15° by paying a levy of

EUR 101,916,395.63, which consists of an amount of EUR 33,071,946.73 for the Brussels-Capital Region, an amount of EUR 22,810,842.29 for the Walloon Region and an amount of EUR 46,033,606.61 for the Flemish Region.

The ERP decision-making body 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 point 15°(1), 2, 3 and 4.

The amounts of the levy referred to in the first paragraph of this point will be reduced by 25% by operation of law from the calendar year following the first full year of operation of a deposit-return system or an equivalent system for household beverage containers; the amounts reduced are subsequently reduced by 5% each year for each of the six subsequent calendar years.

The amounts of the levy are reduced by the amounts corresponding to the combined market share of the packaging managers implementing their obligations in accordance with Article 7 on an individual basis. The market share of this party responsible for packaging is expressed as a percentage calculated by dividing the numbers of household packaging placed on the market by the party responsible for packaging from which the litter in question arises by the total numbers of household packaging placed on the market from which the litter in question arises and then multiplying it by a factor of 100.

The levy is only owed if the calculated levy is at least EUR 500.

To the extent that the recognised body, together with the relevant government agencies, has opted for the organisational and financial take-back of litter, the levy does not apply to that share.

The amounts referred to in the first paragraph of this point are adjusted annually in line with the health index of consumer prices, the base index being the average of the figures of the health index of consumer prices of the four first months of the previous year.

To the extent that no contract applies, as provided for in point 15°, and the levy provided for in the first paragraph is paid, the regions undertake to measure the efficiency of the actions financed by the levies collected using performance indicators.

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 Commission for EPR, together with the competent regional administrations, will evaluate the amounts of the levy, as set out in the first paragraph, on the basis of the same assumptions in the three regions for the regional governments. The amounts of the levy must be adjusted on the basis of this evaluation at the latest from the calendar year 2029, with the express intention of extending the scope of the levy to cover litter from all household packaging. This evaluation is then repeated every five years.

The recognised body reports to the Interregional Commission for EPR, with regard to a given calendar year N, no later than 1 March of the year following the calendar year N+1 following the calendar year, the quantities of household packaging placed on the market by its members in calendar year N-1. The Interregional Commission for EPR then determines, for year N on the basis of the quantities for calendar year N-1, the market share of the recognised body, as determined in accordance with the fourth paragraph of this point, and communicates the specific amounts to be paid by the recognised body by 1 April of calendar year N+1 by means of a form. The levy is paid annually by 15 April in calendar year N+1 by means of bank transfer to the account numbers communicated by each region. Each region is responsible for the further distribution of the levy to all public authorities that bear the costs referred to in Article 13(1), 15°, 1°-3° within its territory. By 15 April of calendar year N at the latest, an advance payment of 50% of the estimated levy due for calendar year N must be made; this is based on the estimated number of packaging items subject to the levy that were placed on the market by the members of the recognised body in calendar year N-1. For this purpose, on 1 March of calendar year N, the recognised body reports the estimated numbers of calendar year N-1.

The levy is payable for the first time in respect of the calendar year 2026.

The form referred to in the eleventh paragraph of this point contains the following information at a minimum:

1° The amounts claimed by region or public authority concerned;
2° The account numbers to which the amounts must be transferred.

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 Permane nt Secretariat responsible for monitoring. That fine is 10% of the unpaid amount. The fine is paid to the Regions and distributed on the basis of the distribution key that can be derived from the amounts per Region included in the first paragraph of this point.

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 is required to submit all information necessary to verify the accuracy of the amounts paid at any request made by the officials responsible for monitoring.

At any request of the officials responsible for the inspection, provide, the approval body must provide any information requested either verbally or in writing, to verify the accuracy of the sums paid.

For the 2026 calendar year and for each Region, the amount of any voluntary financial commitments referred to in point 4° not covered by a previous agreement will be deducted from the amounts referred to in the first paragraph of this point.".

Section 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 the producer or party responsible for packaging chooses, through the recognised body together with the relevant government authorities, to fulfil its obligation by means of a system of organisational and financial take-back of litter (organisational and financial option), it must conclude contracts with the government authorities that bear the costs of managing litter originating from household packaging covered by the SUP Directive, from cigarette packaging and household beverage cans placed on the market by members of the recognised body. These contracts must be in accordance with the model contracts which, after analysis by and on the proposal of the EPR 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) *availability of reusable alternatives, reuse 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) *environmental effects, especially the marine environment, of litter and other inappropriate forms of disposal of household packaging waste;*
2. *cleaning up the litter of household packaging and subsequent transport and processing of that litter in accordance with regional provisions;*
3. *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 establishment 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

Section 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, are also responsible for supervising the provisions of Books II and III of this cooperation agreement and monitoring of compliance with the obligations in relation to extended producer responsibility in accordance with Regulation (EU) 2023/1542. The officials and members of staff of each competent administration of the Region designated by their government have the status of police officer. They take the oath in that capacity. They have the opportunity to be assisted by the ordinary police.

Section 2. Each producer and any collective body must, at the request of the persons referred to in the first paragraph, make available all documents and correspondence and provide, verbally or in writing, all information relating to the performance of its obligations under this cooperation agreement and Regulation (EU) 2023/1542.

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 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 and Directive (EU) 2023/1542.

Section 3. Each producer and any collective body is 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 and Directive (EU) 2023/1542. Offices, factories, workshops, shops, garages and premises used as a factory, workshop or warehouse is regarded as premises in which an activity is carried out.

If these operations bear the characteristics of a search, they may only be carried out on condition that the investigating judge has authorised them.

Article 38

Section 1. A producer who does not 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 determination of the ERP decision-making body that these objectives were not met, will be punished by a fine of EUR 1,000 to 2 million.

Section 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 will be punished by a fine of EUR 1,000 to EUR 2 million.

BOOK IV – FINAL PROVISIONS AND PROCESSING OF PERSONAL DATA

Article 39

The ERP decision-making body of the Interregional Commission for the ERP will:

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° examines applications for recognition submitted by management bodies and collective bodies pursuant to Article 9(7) and Article 27(1), and monitors the implementation of the recognitions it grants;

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 names of 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° prepare the forms referred to 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 undertakes an 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 extended producer responsibility established by this cooperation agreement, the Regional governments, acting together by means of an executive cooperation agreement and Directive (EU) 2023/1542, to the extent that they act reasonably, effectively and proportionately, are authorised to unambiguously determine the relevant actors, including producers, management bodies and collective bodies, intermediaries and final sellers, public or private waste management operators, local authorities and, where appropriate, re-use and preparation operators and social and solidarity economy businesses.

The definition of the roles and responsibilities of the parties concerned must aim to enable proper implementation of extended producer responsibility and may relate to:

- Modalities of collection and take-back of the waste concerned;
- Cooperation between producers and public-law bodies with territorial responsibility for household waste. The basic principle here is that public-law bodies are responsible for the free collection of the relevant household waste and that producers must pay a fair fee for this. Exceptions may be made to this rule if other collection channels are more efficient and effective;
- Reporting on own activities with the waste concerned;
- The obligation to secure and incentivise opportunities for recovery, re-use and high-quality treatment of the waste concerned during its collection, storage and transport;
- The obligation for holders of the waste concerned to provide information on waste prevention, re-use and preparation for re-use, take-back and collection systems and the prevention of litter;
- Indication of the environmental contribution on the invoice.

Article 42

The processing of personal data in the context of the application of this
Cooperation agreement is necessary for the fulfilment of a task of general interest, as referred to in Article 6(1)(e) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

The personal data referred to in Articles 11, 15, 34 and 37 will be used to verify whether the producer is complying with its extended producer responsibility obligations.

The person responsible for data processing is the Interregional Commission for EPR. This data will be stored for a maximum of five years.

Article 43

The processing of personal data within the framework of this cooperation agreement is necessary for the fulfilment of a task of general interest, as referred to in Article 6(1)(e) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

The personal data referred to in Articles 22, 23 and 25 will be used, in the context of the assessment of the individual litter management plan, to identify the producer who submitted that plan.

The person responsible for data processing is the Interregional Commission for EPR. These data will be kept for the period of validity of the individual litter management plan.

Article 44

The Interregional Commission for the ERP will take appropriate measures to provide the data subject with the information referred to in Articles 13 and 14 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and with the communication referred to in Articles 15 to 22 and 34 of the same Regulation with regard to the processing of his or her personal data for the purposes

set out in Article 42 of this cooperation agreement, in clear and plain language, in a concise, transparent, intelligible and easily accessible form.

Article 45

This cooperation agreement enters into force on the implementation date of the last act of assent.

Articles 37 and 38 of the current cooperation agreement only apply to a waste stream referred to in Article 7(1)(1), as soon as an executive cooperation agreement, as provided for in Article 7(1)(3), has entered into force for this waste stream.

Brussels,

Minister-President of the Flemish Government,
M. Diependaele

Flemish Minister for Environment and Agriculture,
J. Brouns

Prime Minister of the Walloon Government,
A. Dolimont

Walloon Minister for Health, Environment, Solidarity and Social Economy,
Y. Coppieters

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

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