



The Pros and Cons of EPR: Lessons from France

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NOTE: The following is an excerpt from a policy brief that will be released in June. Once it is published, it can be access on GAIAs plastics treaty webpage at no-burn.org/unea-plastics-treaty

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Summary

This brief presents insights and recommendations on the design and implementation of Extended Producer Responsibility (EPR) schemes, drawn from France's history of EPR implementation since 1992. It focuses in particular on an analysis of EPR for household packaging, textiles, cloth and shoes, and toys.

The main conclusions are:

(detailed recommendations appear in the conclusion)

- EPR is not merely a technical arrangement: strong political direction is needed for the definition and oversight of financial modalities, in order to avoid economic fall-out for reuse and recycling operators.
- From the outset, EPR's has had only a marginal role in reducing packaging waste, and particularly plastics: it can, under certain conditions, foster eco-design or partly finance re-use, but it was not designed to reduce the amount of packaging placed on the market.
- Given the limitations of EPR, it is essential to resort to other waste prevention and reuse levers to complement EPR, such as: production and market placement reuse quotes, regulation, including bans on single-use, short-lived or hard-to-repair products, and taxation.

Introduction

Key EPR principles and aims

EPR schemes are derived from the “Polluter Pays” principle, which holds that those responsible for environmental pollution should bear its costs. The Organisation for Economic Co-operation and Development (OECD) has played a central role in promoting this since the 1970s as a guiding principle for all environmental policy. It is also a major pillar of environmental law in the European Union and in many countries.

Applying the polluter pays principle through EPR consists of “internalizing environmental costs” – in this instance, those associated with waste prevention and management – in the budgets of manufacturers or distributors, in order to achieve two goals:

- ✔ **To provide financing** for waste prevention and waste management actions.
- ✔ **To shape the behavior** of economic actors towards waste reduction and the circular economy.

EPR is most often implemented through Producer Responsibility Organizations (PROs) created by producers and distributors to collect EPR fees and use them to accomplish goals set by governments. Current EPR schemes are often managed by producers, even though there are exceptions, such as in Taiwan¹.

The **EPR scheme design** is key: the parameters (cost scope for management, the eco-modulation system, etc.) and the mode of governance (PRO by-laws, procedures for oversight and penalty by public authorities) are critical to achieving the scheme’s objectives. They can also majorly impact operations and economic models for players’ prevention, reuse, recycling, and waste management, both in the formal and informal sectors.

EPR **effectiveness** must be assessed with respect to the two aims noted above: are EPR fees effective? Are they sufficient? Are they redistributed in an appropriate and fair manner in social terms? Are recycling and prevention making any progress? Are burning, co-incineration and landfilling receding? Are the quantitative and qualitative goals set in legislation being achieved? This evaluation should consider the broader policy context, and be updated as new research on climate and planetary boundaries emerges.

EPR schemes to address plastic pollution

¹ https://recycle.epa.gov.tw/en/aboutus_01.html

EPR schemes are organized by product types, the most common globally being that of household packaging. Other products streams are relevant for plastic wastes, including textiles, electronics, cars and toys.

All these schemes are **based on product types** and thus cover multiple materials. This helps avoid a mere transfer of environmental harm: one cannot “evade” an EPR fee simply by switching materials. But this also means that EPR does not address plastic pollution as such, it only addresses it indirectly through products. This means that EPR schemes must be created for every type of product containing plastic, which is a huge and time-consuming operation.

Current EPR schemes cover finished products, through the companies that put them on the market, and **do not directly involve the petrochemical and plastics industry**. Therefore, they do not attack plastic pollution at the source.

Many EPR schemes share common challenges, and accordingly, an overall assessment is needed on where EPR is relevant. The establishment of EPR schemes can have **specific impacts on certain lines of work**. Impacts on recycling and reuse vary by sector and by country, and depending on the formal and informal economic players already involved in those sectors.

Reuse can also look very different in different EPR schemes; in some cases, reuse means giving up the use of plastic (e.g. to use glass bottles instead), while in others, such as textiles, the development of reuse is relatively disconnected from material choice. **EPR financing parameters therefore cannot always be transposed from one scheme to another**.

EPR in France

France was one of the first countries to establish **EPR for household packaging in 1992**, and then for many other kinds of products, including electronic and electrical equipment, furniture, and medication.

The most recent schemes cover toys, sports and leisure equipment, hardware and gardening materials, and building products and materials produced by the construction sector. **New schemes are yet to emerge** in 2023-2024 for food service packaging and sanitary textiles.

French law allows for various ways to apply EPR, either individually or collectively: a company may, for example, establish its own system to handle waste from the products it puts on the market. However, **in nearly all cases, EPR schemes are operated by PROs** that belong to producers and distributors. One or more PRO operates each EPR scheme, and is approved by the government to do so, according to agreed terms and conditions.

In the wake of persistent criticism, the 2020 Anti-Waste Law for Green Growth (**AGEC - Loi Anti-gaspillage pour une croissance verte**) overhauled the functioning of EPR schemes. This reform aimed to improve governance and transparency, increase conduciveness to ecodesign by strengthening eco-modulation, and to further support reuse and repair through dedicated funds. While it is too early to fully assess this law's implementation, research for this publication suggests that these changes will not be sufficient to correct dysfunctions observed across EPR schemes.

Conclusion

Redefining EPR scheme governance

EPR scheme governance is a central issue, whether from the angle of financing or that of reuse and waste reduction goals.

The apparent simplicity of the EPR framework hides the great **challenges with its implementation**. The power balance within EPR schemes is at the root of their limited effectiveness and the risks they brings for local governments and pre-existing operators, since it currently favors the strategic interests of producers and distributors.

Producers are required to cover part of the end-of-life costs for products and packaging they place on the market, , but in return they acquire enhanced control over the whole value chain, from the supply of recycled material, to reuse and its economic model, to the purchasing behaviors of final consumers.

In France, the issue of EPR governance has often been discussed; the government had proclaimed it was tackling the matter within the framework of the AGECE Law, but the final text ended up becoming a "make-believe" reform, which also proved to be extremely time-consuming for all stakeholders: an inter-sectorial commission (CiFEPR) overseen by the State meets at least once a month, but its role remains an advisory one, and the specific technical or operational discussions for each scheme are referred to stakeholder committees composed and run by PROs, and which also operate in an advisory capacity.

The state can and must play the role of arbitrator on questions of defining costs and environmental goals. The political guidance of EPR schemes thus remains essential, and their oversight constitutes an administrative responsibility that is not negligible.

To correct the imbalance of power within EPR schemes and encourage waste prevention, three approaches should be explored:

- Entrust the definition of key criteria and procedures (price tables, eco-modulations) to public authorities or to an independent body of players introducing packaging to the market.
- Reconsider the ownership and management of PROs solely by players introducing packaging to the market: a mixed or public governance should be considered.
- Adopt oversight mechanisms and effective penalties in case the goals set by public authorities are not reached.

Giving EPR its rightful place among other environmental policy options

EPR is not designed to reduce sectoral overproduction – even for plastic packaging; it was designed as a tool for financing and to develop recycling, and has extremely limited impact on prevention.

Furthermore, by virtue of its national character, EPR cannot provide a complete and satisfactory response to the management of plastic waste and the global and ever-changing pollution it triggers.

It is therefore essential to resort to other environmental policy avenues to deal with plastic pollution:

- General and environmental taxation
- Supporting reuse, including through public and private investments
- Ending subsidies and other financial incentives that keep single-use plastic prices artificially low and thus indirectly penalize reuse
- Defining quotas for the placement of products on the market, to support a phasedown of plastic material production
- Prohibitions on problematic plastic products, materials, or uses
- A general reduction in the production of plastic through a new international treaty

