



Nordic Council  
of Ministers



The Nordic textile reuse  
and recycling commitment  
– a certification system  
for used textiles and  
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*Anna Fråne, Cecilia Askham, Stefán Gíslason, Nikola Kiørboe, Hanna Ljungkvist, David McKinnon and Synnøve Rubach*

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# Summary

“The Nordic textile re-use and recycling commitment” is a voluntary certification system, which ensures sustainable and transparent handling of used textiles. There are two types of certification: one for collection of textiles aimed for re-use only, and one for collection of both textiles for re-use *and* textile waste for recycling.

## Certification system

The certification system is illustrated in Figure A. The certification system operator (CSO) is responsible for the practical management and administration of the certification system. The CSO is the external window of the system and the primary contact for organisations that wish to certify their operations. The CSO makes decisions with assistance from a certification committee. The collectors may apply for certification if they can prove by third party auditing that they comply with criteria for transparency and environmental performance set up within the certification system. There are 23 criteria for collection of textiles for re-use only, and 26 criteria for collection of textiles for re-use and textile waste for recycling. For each set of criteria there is also an additional criterion if the collector wishes to claim social benefit status. Compliance is checked by a third party auditor. The auditor is an organisation authorised by the CSO to audit and verify the information provided by the collector. Collectors use self-assessment checklists to prepare for an audit. The checklists include the criteria, but also specific documentation requirements for each criterion to be fulfilled by the collector. There is a checklist for each of the two types of certificates available.

Figure A: Illustration of the certification system



## Certification process

The principles of the certification process for a collector are briefly described below.

### 1. Contact the CSO

The collector contacts the CSO by mail or phone and informs of their ambition to apply for certification. The collector needs to inform the CSO about which type of certificate the collector is aiming for.

### 2. Check compliance with criteria

The next step for the collector is to go through self-assessment using the checklists. The documentation to prove that the criteria are fulfilled needs to be compiled and available to the auditor during the audit.

### 3. Agreement with auditor

When the collector feels that the necessary preparation is made, the organisation enters into an agreement with an auditor. The collector needs to inform the CSO about which auditor they plan to appoint so that the CSO can make sure that the auditor fulfils the auditor requirements.

### 4. Audit

The auditor and the collector decide when the actual audit will take place. When the audit is finalised the auditor sends an auditor report to the CSO with information about the collector's compliance with the criteria. If the criteria are fulfilled the certificate can be issued by the CSO. Certification means that the collector is allowed to use the system logos at collection points and in their marketing material. Certification requires full compliance to all criteria. If the collector fails to comply with one or several of the criteria the collector has a maximum of 90 days from the audit date to correct minor deviations.

## Project summary

"The Nordic textile re-use and recycling commitment – Part 2 Implementation" was a continuation of the work carried out in 2013 and 2014 when the basis for a proposal for "The Nordic textile re-use and recycling commitment" was developed. The aim of this project was to test and implement the certification system and the criteria for transparency and environmental performance. The work was initiated by the Nordic Waste Group (NWG) and financed by the Nordic Council of Ministers (NCM). The work was carried out by a project team consisting of IVL Swedish Environmental Research Institute (SE), Ostfold Research (NO), Copenhagen Resource Institute (DE), and Environice (IS). Ramböll acted as subcontractor to IVL.

The key goals of “The Nordic textile re-use and recycling commitment” certification are

- that 50% of collected textiles and textile waste is re-used by 2025 (either in Nordic countries or abroad), and that 90% of the total amount of textiles collected is re-used or where re-use is not possible, recycled
- to double the share of post-consumer textiles that are collected separately across the Nordic region in 2025 compared to 2012
- to aim towards closed-loop recycling rather than down-cycling
- to eliminate the illegal collection, export and trading of post-consumer textiles
- to increase transparency of the fate of collected textiles, the purpose of the collection, and increase public confidence in collecting organisations.

Participation from textile collectors in the trial was essential in order to test and validate the criteria and the certification process. The trial aimed to be flexible and to test the boundaries of the criteria in terms of transparency, traceability and whether they were reasonable in the current operating environment. The collectors participating in the trial were Myrorna (SE), Fretex (NO), UFF Denmark (DK), and H&M Norway (NO). Bureau Veritas and Miljöfyrtorn were used as interim auditors, and IVL worked as the CSO during the project. A Nordic reference group consisting of actors involved in different parts of the value chain gave feedback and input to the project process. Three reference group meetings were held. A website ([www.textilecommitment.org](http://www.textilecommitment.org)) was created to communicate the project and the future certification system.

The CSO will be appointed by the NWG on behalf of the Nordic Council of Ministers to run the certification system. NWG is likely to procure the role as CSO on a one or two year basis. After this initial one to two-year period, the certification system should be able to bear its own costs and continue without additional funding from NWG. This process is likely to start in the beginning of 2017, and the certification system will hopefully be operational soon after that.



# 1. Introduction

Textiles as a product group is associated with significant environmental impacts, and the consumption of textiles has risen drastically in recent years. At the same time, separate collection levels are generally low in the Nordic region: 350,000 tons of new textiles are put on the market each year in the Nordic countries, but only 120,000 tons of used textiles are collected. The remaining textiles typically end in residual waste (Palm *et al.* 2015).

Collection of textiles for re-use and recycling is currently performed mostly by charities, which sell the textiles to raise money for social work and similar activities. There are no specific regulations governing the management of textile waste in the Nordic region. Charities perform a vital task in creating value out of used textiles on a voluntary basis, but there is a need for a common standard to increase the levels of re-use and, particularly, high-grade recycling.

“The Nordic textile re-use and recycling commitment” is a voluntary certification system with two types of certificates, one for collection of textiles aimed for re-use only, and one for collection of both textiles for re-use *and* textile waste for recycling. The collectors may apply for the certificates if they can prove by third party verification that they comply with the criteria for transparency and environmental performance. The key goals of the commitment are

- to double the share of post-consumer textiles that are collected separately across the Nordic region in 2025 compared to 2012
- that 50% of collected textiles and textile waste is re-used by 2025 (either in Nordic countries or abroad), and that 90% of the total amount of textiles collected is re-used or where re-use is not possible, recycled
- to eliminate the illegal collection, export and trading of post-consumer textiles
- to increase transparency of the fate of collected textiles, the purpose of the collection, and increase public confidence in collecting organisations.

This report summarises the work in the project “The Nordic textile re-use and recycling commitment – Part 2 Implementation”.

## 1.1 Background to “The Nordic textile re-use and recycling commitment”

In 2010, the Nordic Prime Ministers formed a working group for green growth. In 2011, the group identified eight specific target areas where joint Nordic cooperation was considered beneficial for the Nordic countries. Further work was delegated to the Nordic Council of Ministers. The green growth initiative launched by the Prime Ministers was called The Nordic Region – leading in green growth.

One of the eight priority areas was resource efficiency and life cycle thinking in the waste management sector. Responding to this, the Nordic Waste Group (NWG), under the Nordic Council of Ministers, initiated the umbrella project “Resource-efficient recycling of plastic and textile waste”. In 2012, a preliminary study was carried out to explore the potential for increased recycling of plastic and textile waste in the Nordic region.

NWG subsequently developed six projects based on the preliminary study: three on textiles and three on plastics. “The Nordic textile re-use and recycling commitment” was one of the three textile projects. The two others were “A Nordic strategy for collection, sorting, re-use and recycling of textiles” and “An extended producer responsibility (EPR) system and new business models”.

During 2013 and 2014 the basis for a proposal for “The Nordic textile re-use and recycling commitment” was developed. The commitment included a code of conduct and a certification system to promote an increased re-use and recycling of used textile and textile waste in the Nordic region. Criteria for operation and certification were suggested to ensure that legitimate collectors would be given an advantage and possibilities for an increased market by making their management of textiles more transparent. The system was however not tested or fully operational, and a future need for trials was indicated. 12 actors in the value chain of used textiles committed to supporting implementation of the certification system (Palm *et al.* 2015).

Progress has been made since the initial development of “The Nordic textile re-use and recycling commitment”. The original set of criteria within the code of conduct was tested and revised in this implementation project carried out during 2015 and 2016. The name “code of conduct” was changed to “Standard for transparency and environmental performance” in order to better capture the content of the criteria. Later in the project it was simplified further to “Criteria for transparency and environmental performance”. One planned certificate was turned into two; one for collection of textiles aimed for re-use only and one for collection of textile for re-use and textile waste for recycling. This change was needed due to legal implications, and the fact that all collectors might not be willing to take the administrative burden that collection of waste incurs.

Another development is that the original idea of having “The Nordic textile commitment” as an overall commitment to be signed by a variety of actors was abandoned in this project. Originally, the actors signing the commitment had to comply with certain criteria, but it was unclear how to control compliance. The signing

procedure of the commitment has thus not proceeded. This is to avoid confusion about the meaning of the commitment and the certification system.

## 1.2 Aim of the certification system and this project

“The Nordic textile re-use and recycling commitment” certification aims to decrease the environmental impact of textile consumption and to strengthen the competitiveness of the Nordic region by increasing re-use and recycling of textile waste generated in the Nordic countries.

The key goals of the commitment are

- to double the share of post-consumer textiles that are collected separately across the Nordic region in 2025 compared to 2012
- that 50% of collected textiles and textile waste is re-used by 2025 (either in Nordic countries or abroad), and that 90% of the total amount of textiles collected is re-used or where re-use is not possible, recycled
- to eliminate the illegal collection, export and trading of post-consumer textiles
- to increase transparency of the fate of collected textiles, the purpose of the collection, and increase public confidence in collecting organisations.

Certified actors comply with the criteria for transparency and environmental performance (previously called code of conduct) for all phases of the collection, sorting, re-use and recycling processes of used textiles and textile waste. There are two types of certification: one for collection of textiles aimed for re-use only and one for collection of textile for re-use and textile waste for recycling. The re-use target for collection of textiles aimed for re-use only is that 80% of the collected textiles must be re-used, and that 90% must be re-used or recycled. For collection of textiles for re-use and textile waste the target is 50% re-use and 90% re-use and recycling.

By undergoing the certification process, collectors of textiles for re-use and/or textile waste for recycling will be able to document that the collection and further management fulfil the demanded requirements, and that the process is transparent and reliable. “The Nordic textile re-use and recycling commitment” certification system will reassure consumers that textiles delivered to certified collectors are treated in an environmentally responsible and transparent manner, and it will help local authorities to identify responsible textile collectors for public collection points.

This project summary report presents the implementation project of “The Nordic textile re-use and recycling commitment”. The aim was to test and implement the certification system and the criteria for transparency and environmental performance. The project goals were to:

1. Perform a one-year trial of certified collection and textile management in one larger region and one municipality including sample checks of compliance with certification.
2. Audit 3–6 actors including collection, sorting, recycling and sales of second hand textiles.
3. Communicate and promote the commitment as a guarantee for legitimate and sustainable management of used textiles through websites, collection points and second hand stores.

### 1.3 Participating collectors

Participation from textile collectors in the trial was essential in order to test and validate the criteria and the certification process. The trial aimed to be flexible and to test the boundaries of the criteria in terms of transparency, traceability and whether they were reasonable in the current operating environment. According to the project description, 3–6 actors should take part in the trial. The participating collectors should preferably be located in different Nordic countries, and represent a mix of both charities and commercial actors.

Myrorna and Fretex had shown interest in participating in the trial at an early stage and were therefore chosen after approval by NWG, along with UFF Denmark and H&M Norway. The project group also tried to engage a smaller actor in the trial, but did not succeed.

### 1.4 Project outline

The project group included four organisations; IVL Swedish Environmental Research Institute (IVL), Copenhagen Resource Institute (CRI), Ostfold Research, and Environice. The project was managed by IVL. Ramböll acted as a sub-contractor to IVL.

The project work was divided into five tasks to run between April 2015 and September 2016 in accordance with the original time plan. The project was prolonged until December 2016 to incorporate results from a legal assessment of the criteria performed by a Danish law firm on behalf of the NWG. The report from the legal assessment is in Appendix 7.

The project activities are listed, and briefly described below. They are further described in Chapter 2.

- *Activity 1: Nordic reference group:*  
This task included formation of the reference group as well as organising and implementing three reference group meetings (see Chapter 2.1 for more details). The reference group was also consulted and kept informed between the meetings by email. The role of the reference group was to ensure a clear

focus in the project and provide input on criteria relevance and practical issues related to the implementation of “The Nordic textile re-use and recycling commitment” certification. Notes from the reference group meetings were made available to the public on the project website.

- *Activity 2: Website and communication material:*  
Within activity 2 a project website was set up (see more under Chapter 2.2). Activity 2 was also home for the communication efforts made in the project, for example press releases, information on participating organisation’s websites etc.
- *Activity 3: Certification system operator:*  
IVL had the role of certification system operator (CSO) during the project with the help from the other team members. Efforts were made to find a CSO willing to take over the role as CSO after the finalisation of the project. Results from Activity 3 are presented in Chapter 5.
- *Activity 4: Development of checklists and appointment of interim auditors:*  
Checklists to be used by participating collectors in the trial (Activity 5) were created on the basis of the original set of criteria. The format and the comprehensiveness of the developed checklists were tested in Activity 5, and thereafter subject for revision several times. When two types of certificates were introduced two checklists needed to be developed. There is more information about the checklists in Chapter 2.3. Activity 4 also included appointment of interim auditors, see Chapter 2.6, where requirements for the interim auditors had a main role.
- *Activity 5: Trial of the developed system:*  
This task included test of compliance with the original set of criteria with four organisations participating in the trial; Myrorna (Sweden), Fretex (Norway), UFF Denmark (Denmark), and H&M (Norway). The process was meant to be flexible and seen as a test of boundaries in terms of transparency, traceability, and reasonability of the criteria. All organisations went through third party verification by the interim auditors. The format and comprehensiveness of the checklists was also part of the trial. The results from the audit are presented in Chapter 3. Activity 5 also included estimation of certification and audit costs, and revision of documents developed within the project.

## 1.5 Explanations of terms

- *Auditor:*  
The auditor is an organisation authorised by the Certification System Operator to audit and verify the information provided by the collector prior to certification.
- *Certification system operator (CSO):*  
The CSO is the body that maintains the certification system and issues certification.

- *Checklists:*  
Collectors use self-assessment checklists to prepare for audit. The checklist includes the criteria for transparency and environmental performance, but also specific documentation requirements for each criterion to be fulfilled by the collector. There is a checklist for each of the two types of certificates available.
- *Criteria:*  
The criteria need to be fulfilled by collectors applying for certification. The compliance is checked by a third party auditor.
- *"The Nordic textile re-use and recycling commitment":*  
"The Nordic textile re-use and recycling commitment" is a voluntary certification system for collectors of textiles. There are two certificates available: one for collection aimed for re-use only and one for collection of textile for re-use and textile waste for recycling.
- *Re-use:*  
Any operation by which products or components are used again for the same purpose for which they were conceived.
- *Preparing for re-use:*  
The definition of preparing for re-use is checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing. The correct term for the certification type named "collection of textiles for reuse and recycling" from a legal point of view is most probably "collection of textiles for preparation for reuse and recycling" as textiles collected in a mixed fraction is to be regarded as waste, and that "preparation for reuse" is a waste operation (see further in Chapter 1.6). However, in order to facilitate the terms used within the certification system this certification type is henceforth called "collection of textiles for reuse and recycling".
- *Recycling:*  
Any recovery operation by which non-reusable materials are reprocessed into products, materials or substances whether for the original or other purposes.
- *Recovery:*  
In a legal sense recovery means "preparing for re-use", "recycling" and "incineration with energy recovery". In the context of the Commitment, recovery refers to energy recovery through incineration or co-incineration, where the principal use of the waste is as a fuel.

## 1.6 Products or waste

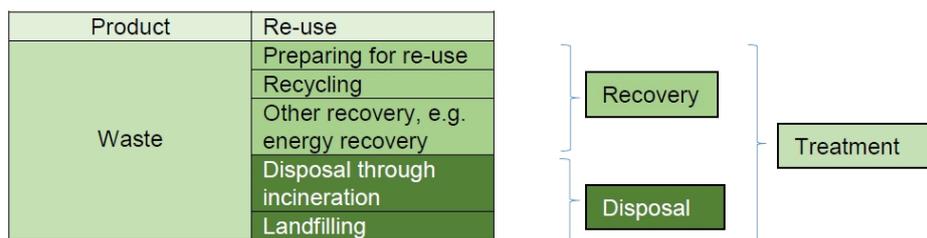
In a legal context an object is considered either waste or non-waste. This is reflected in the waste hierarchy stipulated in Article 4 of the Framework Directive on Waste. The waste hierarchy dictates the priority order for how waste shall be managed. First waste should be prevented, which also includes re-use, and if this is not possible waste

should in the following order be prepared for re-use, recycled, or used for other recovery, e.g. energy recovery. The last option is disposal by incineration without energy recovery or landfilling.

Used textiles intended for re-use that can be used again for the same purpose for which they were conceived would be classified as products. Re-use is in a legal context considered a preventive measure, which is taken before an object becomes waste.

If, for example, used clothing is delivered to a collection container installed for collection of textiles for re-use only, or if the clothing is delivered to a second hand shop with the intention of re-use, the used clothing is considered a product and not waste. This is the case even if all of the collected textiles collected for re-use are not in the end re-used. But if textiles are delivered to a container for textiles for re-use and recycling the collected amount will, due to this mixing, be classified as waste. From an EU law perspective, the collection of used clothing in containers comprising both textiles for preparation for re-use and textile waste for recycling is most probably a waste operation. As a result the collector is considered a waste collector and also a holder of waste until the waste has been prepared for re-use or has been recycled etc. More information is found in the legal assessment report (Aagaard Truelsen and Janfelt, 2017), Appendix 7.

**Figure 1: Terminology of the Framework Directive on Waste: Product vs. Waste (Aagaard Truelsen and Janfelt, 2017)**





## 2. Method

This chapter presents the main methods and approaches used in the project in order to propose how the future certification system will be run. The project has been structured according to the activities listed in Chapter 1.4.

### 2.1 Nordic reference group

A Nordic reference group consisting of actors involved in different parts of the value chain was created to give feedback and input to the project process and to ensure clear focus in the project. Selection of reference group members was based on involvement in the development of “The Nordic textile re-use and recycling commitment”, i.e. the project that formed the basis for this implementation project. A maximum of 15 members was set to reduce the administrative burden for the project group and to facilitate for smooth reference group meetings where everyone gets the chance to be heard. The reference group was approved by NWG. The final composition of the reference group is listed in Appendix 1. The reference group members were also listed on the website.

The reference group met three times during the project. The project researchers also consulted and informed the reference group for different issues during the project.

#### 2.1.1 *Reference group meeting 1*

The first reference group meeting was held in June 2015 and introduced the project, the project’s aims, process and planned work for the reference group. The focus was to inform the reference group and provide the opportunity to give feedback and share opinions and guidance to the project group rather than solicit opinions in specific questions. Issues such as the structure of the draft checklist and the focus of the certification on specific actors in the management chain of textiles and textile waste were discussed in more detail. Minutes from the reference group meeting were made public on the project website ([www.textilecommitment.org](http://www.textilecommitment.org)).

In this reference group meeting it was decided that only collectors and sorters of textiles for re-use and textile waste for recycling should be able to apply for certification. This was later changed to collectors only, see Chapter 2.3.

#### 2.1.2 *Reference group meeting 2*

The second meeting (held in February 2016) was more of a working meeting, where the reference group was expected to give feedback on detailed information revealed

in the project. A revised set of criteria, mainly based on the results from the trials, was distributed before the meeting. The lion's share of the meeting was spent discussing the revised set of criteria presented by the project group. Suggestions from the project group on the requirements for third party auditors were also discussed, as well as the functioning of the certification process and the results from trials with three out of four participating collectors.

The following issues were discussed in reference group meeting 2:

- Revision of criteria.
- Requirements for auditors.
- Certification process.

### **2.1.3 Reference group meeting 3**

The third reference group meeting was held in November 2016. The final proposal for the certification process, including the role and function of the certification committee, the auditor requirements, and the certification system operation were presented and discussed. The status of the legal assessment carried out by the Danish law firm Energi & Miljø was also presented. Some specific issues were discussed, there among the re-use rate for collection of textiles for re-use only, the system fees and the need for site visits during audits.

## **2.2 Website and communication**

A website was created to communicate about the project and the future certification system. Flexibility, user-friendliness, cost-efficiency and possibilities for quick updates were key demands for the project website. The choice therefore fell on the website tool WordPress. The domain name [www.textilecommitment.org](http://www.textilecommitment.org) was chosen.

The website needed to fulfill numerous purposes. It should be the main communication tool for "The Nordic textile re-use and recycling commitment" certification, and ensure an open project process and communication to a wider audience than the reference group. The website audience was:

1. The general public.
2. Actors that might apply for certification.
3. Certified actors.
4. Local authorities.

All information on the website should be relevant for the above-mentioned actors. A draft website was created with information about the project and the history of "The Nordic textile re-use and recycling commitment", the project organisation, reference

group, trial phase etc. The reference group was invited to give feedback on the website and its content. The few comments received were acted upon.

The website is available in English, Swedish, Danish and Norwegian. The website was updated with information such as minutes from the reference meetings, and revised checklists. The reference group meetings and accompanying agendas were also announced beforehand on the website to allow actors outside the reference group to make suggestions to the project process.

The initial idea was to create a map of collection points based on information from the participating collectors and to give a similar overview on the website. At the first reference group meeting this idea was, however, abandoned as the collectors expressed fear of the risk of theft from the collection points.

### **2.2.1 Communication**

In addition to the project website, the project and “The Nordic textile re-use and recycling commitment” certification was communicated through other communication channels. A press release was sent out from IVL, VA Syd and the Swedish EPA in March 2015 and received national press coverage as newspapers such as Dagens Nyheter, Göteborgsposten and Metro picked up the piece of news and wrote about the project and the commitment. UFF Denmark, Copenhagen municipality, CRI, IVL, Ostfold Research and Myrorna informed about the project and the coming certification system on their respective websites. The planned certification system and the trial phase were also presented on a number of seminars.

It was decided not to print leaflets about the certification system and the trial in the implementation project due to the risk of having incorrect information in the leaflets due to revision. The project did, however, develop communication material that could be used by the future CSO when communicating about “The Nordic textile re-use and recycling commitment” certification, see Chapter 5.3.

## **2.3 Creation of checklists**

### **2.3.1 First version of checklist**

The project group developed self-assessment checklists for actors applying for certification. In addition to the criteria the checklists included specific questions to be fulfilled by actors in the value chain of used textiles.

Initially, the project group created self-assessment checklists for different actors in the value chain; collectors, sorters, recyclers, transporters, exporters, re-users, and auditors. This turned out to be too complicated and introduced a significant administrative burden on the CSO.

By certifying only textile collectors and requiring that they provide information about the entire downstream value chain, the administrative burden for the certification system operator is reduced. This also seems logical and consistent with

other certification systems, for example, documentation demands for eco-labelling products fall on the actor marketing the product.<sup>1</sup> It is then up to this actor to apply pressure further down the value chain, for example on manufacturing and transportation.

In addition to collectors, it was decided that sorters would also be eligible for certification, as it could be advantageous to have a certificate to show when contacting possible customers, i.e. collectors of textiles and textile waste. The project group's suggestion to enable collectors and sorters to apply for certification was discussed during the first reference group meeting. There was a consensus in the reference group that this was the right way forward. However, the project group later decided that only collectors should apply for certification. This was motivated by the fact that the collectors are the actors in the value chain facing consumers, and that much of the sorting takes place outside the Nordic region.

Development of the checklists proved to be a heavier challenge than expected. The first version of the checklist for collectors was discussed in separate meetings with the collectors participating in the trials, with the aim of soliciting feedback that would help improve and streamline the checklists. This was an informative and necessary process, enabling more clarity in the description of criteria, and enabling the questions in the checklist to be made more precise. The project group also received feedback on the format of the checklist, and was asked for a simpler structure with less repetition. The interim auditors gave the same kind of feedback as the collectors; the format needed to be simpler, and the requirements to fulfill the criteria more precise.

### **2.3.2** *Second version of the checklist*

After some adjustments the checklist was used in the trial audits, and revised based on results and experience gained in the trials. From the trial audits, it was apparent that it was more suitable to outline the documentation requirements rather than making the collectors answer questions related to each criterion. The trial served its purpose, as it would not have been possible to produce reasonable documentation requirements without testing the checklist. Thanks to the trial, the project group gained valuable insights about the requirements in terms of type of data and documentation that is possible to require from a realistic point of view.

### **2.3.3** *Need for two versions of the checklist*

Originally a single certification was envisaged: one that covered collection of all textiles (both textiles for re-use and textile waste). The inclusion of textile waste, however, introduced rather complicated legal implications for collectors, as they would be required to be approved waste collectors. To circumvent this issue, two types of certification will be offered: one for collection of textiles for re-use only, and

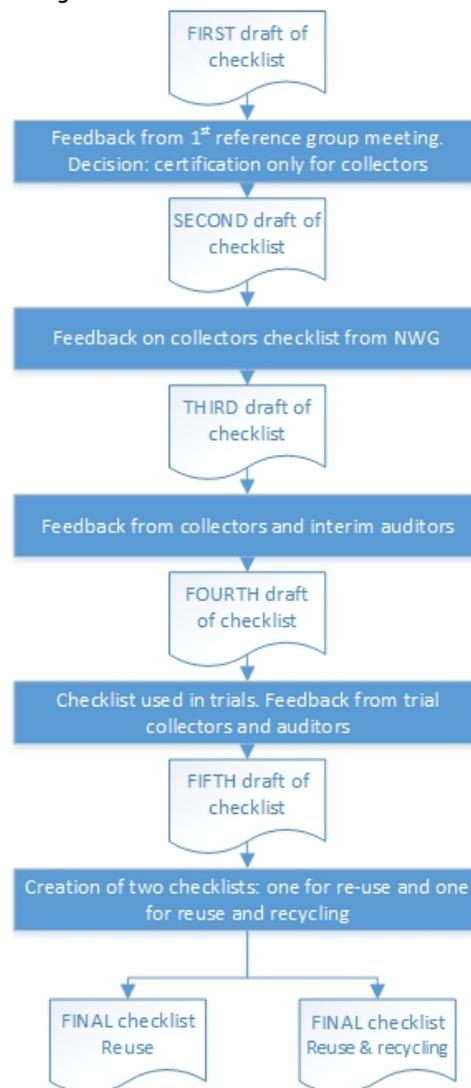
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<sup>1</sup> E.g. The Nordic Swan, EU flower.

one for collection of textiles aimed for re-use and textile waste recycling. As a consequence of this, two versions of the checklist were developed. Read more about the need for two types of certificates in Chapter 2.9.

The work on the checklists was an iterative process with continuous dialogue between involved actors. The main stages in the process of creating the checklists are illustrated below.

Figure 2: The process of creating checklists

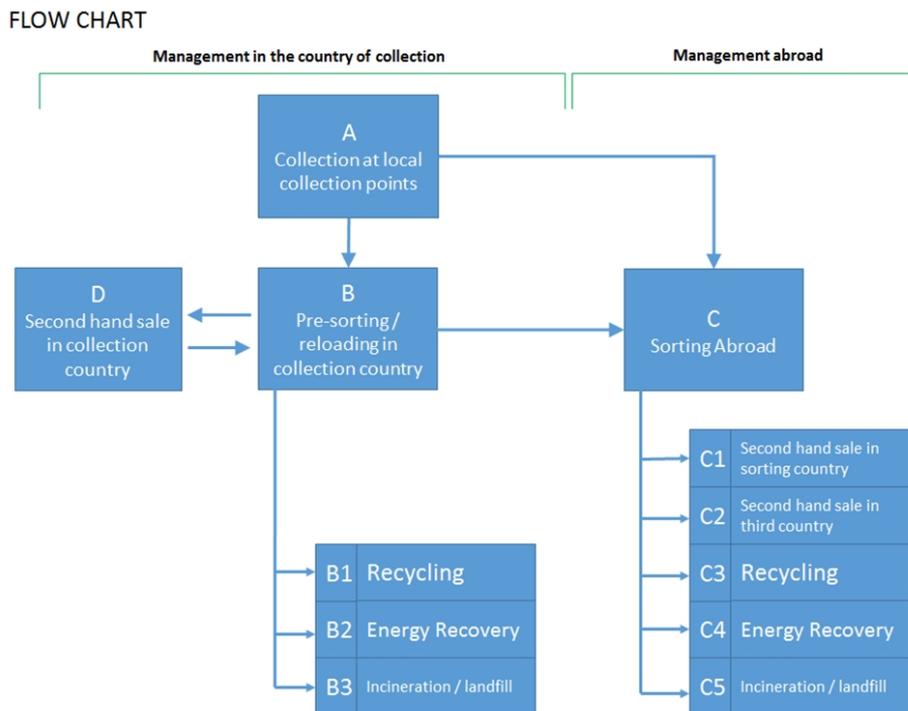


## 2.4 Quantitative information on textile flows

Early on in the development of the checklist, it was concluded that quantitative information about collection and management of textiles and textile waste was necessary. This would allow the verification of re-use and recycling rates, but also provide a general understanding of the textile flows. A flow chart tracking textile material flows was added to the checklist together with an accompanying table to be filled in by the collectors.

Defining the system boundaries was a crucial aspect in creating the flow chart as it determines how far along the value chain the collectors need to document. At the second reference group meeting it was agreed that the system boundaries should end at the input to C1–C5 in the flow chart, Figure 4. This means that the collector does not need to report the outputs from C1–C5, for example the loss of textiles in the recycling processes (C3).

Figure 3: Flow chart in the checklists



### 2.4.1 How to calculate re-use and recycling rates

A subject of continuous discussion throughout the project was how the re-use and recycling rates should be calculated. At the second reference group meeting it was finally agreed that the re-use and recycling rates will be calculated on the basis of collected textiles sent for re-use/recycling divided by the total amount of collected textiles:

- *Re-use rate (%)*:  
Amount of collected textiles sent to re-use (tonnes/year) / total amount of collected textiles (tonnes/year).
- *Recycling rate (%)*:  
Amount of collected textile waste sent to recycling (tonnes/year) / total amount of collected textiles (tonnes/year).  
The re-use and recycling rates shall be calculated for textiles only (not original textiles). Shoes, bags and accessories can be included, but it should be clearly noted in the quantitative information in the checklists. All collected textiles shall be documented with weight and source of origin. The minimum requirement is to weigh collected textiles at reloading stations and in shops.

## 2.5 Appointment of interim auditors

Third party auditors were used to perform trial audits of the participating collectors. Auditors can be individual verifiers, accredited organisations or both. The project group appointed two auditors to take part in the trial; Bureau Veritas and Miljöfyrtorn. By using more than one auditor the project group had the possibility to receive input and feedback in order to improve the checklist, criteria and the certification process from two different actors.

### 2.5.1 Bureau Veritas

Bureau Veritas is a global testing, inspection and certification consultancy. Bureau Veritas operates globally and holds 60+ accreditations to deliver locally accredited certification and verification services.<sup>2</sup> It has 14,000 offices in 140 countries, 66,000 employees and is one of the world's largest testing, inspection and verification companies, delivering services in the fields of quality, safety, environmental protection and social responsibility.

Bureau Veritas Denmark provides certification and auditing under ISO standards (for example, 50001, 9001, 14001 and 22000), EMAS, as well as *inter alia* energy certification and FSC certification. As such, it is well positioned to provide useful feedback on the content and processes involved in the Nordic Commitment. Bureau Veritas Denmark has accreditations, for example for several ISO standards, from DANAK (The Danish Accreditation Fund).

The Danish branch was engaged to undertake the verification of the documentation provided by UFF Denmark. In practice, Bureau Veritas and UFF worked closely during the process, with Bureau Veritas providing vital guidance and support throughout. It is anticipated that such support will not be necessary in the

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<sup>2</sup> Bureau Veritas Certification Holding SAS France: ISO/TS 16949 (IATF), CDM (UNFCCC), SA8000 (SAAS), ISO 9001, ISO 14001, IRIS (UNIFE), FSC (ASI) and Bureau Veritas Certification Holding SAS UK Branch: ISO 9001, ISO 14001, ISO/FSSC 22000, BRC, ISO 27001, EMAS, EN9100/9110/9120, EUETS (UK).

working version of the certification scheme, and was only necessary here to support the trial phase. This continuous dialogue with the third party verifier was accepted and needed in the trial phase. When the certification system is operational the auditor will only be involved in the actual audit. If the collectors need help to prepare for the audit they will have to hire such help.

### 2.5.2 *Miljøfyrtårn*

Miljøfyrtårn (Environmental lighthouse) is a Norwegian environmental management system (<http://www.miljofyrtarn.no>). The national certification system is run by Stiftelsen Miljøfyrtårn (translation: The Environmental Lighthouse Foundation). The foundation was established in 2003 by key organisations in business and public administration. The founders were: The Enterprise Federation of Norway (Virke), Confederation of Norwegian Enterprise (NHO), The Norwegian Confederation of Trade Unions (LO), Bedriftsforbundet, KS (municipal sector employer organization), Innovation Norway, Buskerud county, Nordland county, Municipalities: Bergen, Drammen, Haram, Kristiansand, Larvik, Oslo, Ringsaker, Stavanger, Tromsø, Trondheim and Ålesund.

The Miljøfyrtårn system offers (translation): “relevant, concrete and profitable environmental certification that helps private and public organisations to show environmental responsibility in practice”. Miljøfyrtårn certificates can be issued to private and public organisations, both large and small. The key philosophy is that the system should be an efficient environmental management tool, enabling organisations to take practical steps for responsible environmental management, including continuous improvement. Specified criteria for many different sectors are available and used during the certification process. The audits are performed by independent Miljøfyrtårn certified auditors. Miljøfyrtårn certified organisations must supply an annual climate and environmental report and be audited every three years. Nearly 5,000 Norwegian organisations had obtained Miljøfyrtårn certification by June 2016. The Miljøfyrtårn certificate is approved by Norwegian authorities as documentation of an environmental management system required for public procurement processes.

Miljøfyrtårn certification requires that the auditor (Miljøfyrtårn sertifisør) is impartial. This means that they have no previous employment for the specific client and no direct connection (e.g. ownership etc.). If someone has been a consultant for the company (e.g. to ensure that a company’s Miljøfyrtårn work will fulfil the requirements for certification), then they cannot certify the company. Further information about the requirements for auditors in the Miljøfyrtårn system can be found here (in Norwegian) <http://www.miljofyrtarn.no/sertifisorer-ny/2-uncategorised/464-sertifisor-karriere>.

Participation in approved training courses and annual approval must be in place in order to be an approved Miljøfyrtårn auditor. These activities and the approval process are coordinated by Stiftelsen Miljøfyrtårn. Stiftelsen Miljøfyrtårn maintains a public list of approved auditors and consultants. Companies wishing to gain Miljøfyrtårn certification often use a Miljøfyrtårn consultant for advice before the audit occurs. The

consultant the company uses cannot be the auditor. Consultants are also required to attend training by Stiftelsen Miljøfyrtårn and maintain their annual approval, by fulfilling the requirements of Miljøfyrtårn. The local municipality and Miljøfyrtårn auditor (assigned by Stiftelsen Miljøfyrtårn) sign the certificate to approve the company as certified according to Miljøfyrtårn branch requirements for their organisation. Not all approved Miljøfyrtårn consultants are approved auditors within the scheme (the auditor approval has additional requirements to the consultant role and the auditor work is also different from the advisory nature of the consultant role).

## 2.6 Requirements for auditors

Reliable auditors are crucial for a trustworthy and reliable certification system. Two different models (presented in Figure 5) for the requirements for auditors were presented and discussed on the second reference group meeting. The main difference between these two models is that the first model excludes all auditors that do not belong to a certification body accredited for ISO 14001 *Environmental management systems* and ISO 19001 *Quality management systems*, thus complying with ISO 17021 *Conformity assessment – Requirements for bodies providing audit and certification of management systems*. Having accreditation for these ISO standards was regarded as a proof of having competence for third party auditing within “The Nordic textile commitment”. The second model opens up for exceptions for other “nationally recognised certification bodies”. In the first case the CSO can approve the auditor, but in the latter case the auditors must be approved by the CSO *and* the Certification Committee on a case by case basis.

The reference group preferred Model 2. Motivation for this decision was that the certification system should aim to be flexible, and that the credibility of the certification system is assured through the approval of the potential auditors by the CSO and the Certification Committee. Ideally, there would be an accreditation body for “The Nordic textile re-use and recycling commitment” certification, but as it is not an international well-known standard it is not possible at this stage.

**Figure 4: Two different alternatives for auditor requirements. Model 2 was chosen**

**Model 1**

The auditor:

Must be part of a certification body with accreditation for ISO 9001 Quality Management Systems and ISO 14001 Environmental management systems, thus complying with ISO 17021 Conformity assessment – Requirements for bodies providing audit and certification of management systems.

Must have knowledge and understanding of the criteria.

Must be impartial and objective.

**Pros and cons of model 1:**

- + Makes it easier for the CSO to approve or disapprove auditors.
- + Relies on international well-known standards.
- + Makes the comparison between auditors easier.
- Smaller range of options for collectors.
- Could result in higher certification costs for the collectors.
- May lead to exclusion of nationally well-known quality/environmental management systems.

**Model 2**

The auditor:

Must be part of a certification body with accreditation for ISO 9001 Quality Management Systems and ISO 14001 Environmental management systems, thus complying with ISO 17021 Conformity assessment – Requirements for bodies providing audit and certification of management systems.

Exceptions can be made if the certification body is nationally recognised and approved by the CSO in consultation with the Certification Committee.

Must have knowledge and understanding of the criteria.

Must be impartial and objective.

**Pros and cons of model 2**

- + Makes it more demanding for the CSO and Certification Committee to approve auditors.
- + Larger range of options for collectors.
- More difficult to communicate as the nationally recognized systems might be unheard of in the rest of the Nordic region.
- Could jeopardize the trustworthiness of the certification system.

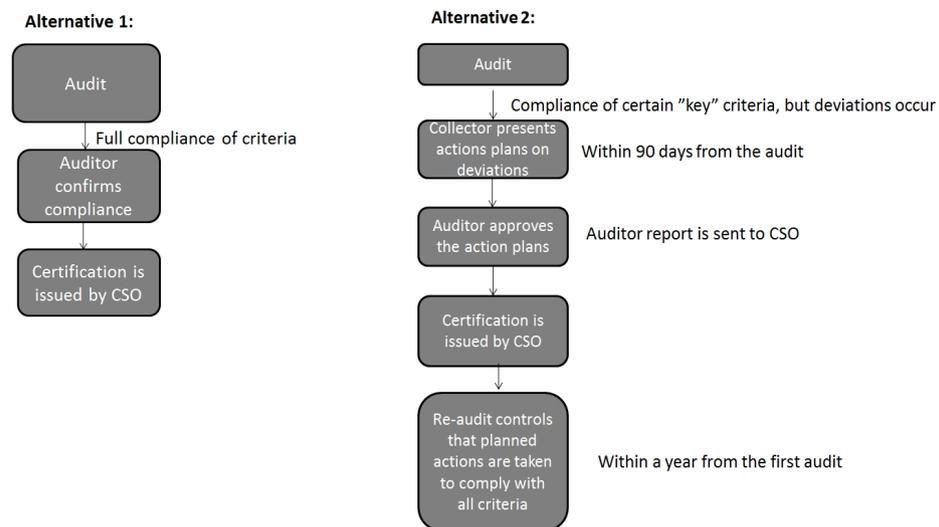
## 2.7 Compliance with criteria

Two different alternatives for addressing instances where not all criteria are met were discussed in the second reference group meeting. Should the certification system require full compliance with all criteria or could deviations be accepted?

One option is to require full compliance. If some criteria are not met, the collector has a maximum of 90 days from the audit date to correct minor deviations. If the deviations are far-reaching and cannot be solved within 90 days, the audit has to be carried out again in full. This is inspired by ISO certifications (Jensen, 2016).

The second option is to require that that selected "key criteria" are fulfilled. Within 90 days from the audit date the collector needs to present actions plans on how to correct the deviations that were revealed in the audit. If the action plan is approved by the auditor, the auditor sends an audit report to the CSO confirming that issuing of certificate is recommended. The CSO issues the certificate, but a re-audit needs to be carried out within a year of the first audit to find out if all actions have been implemented so that full compliance is reached. The two different options are presented in Figure 6.

Figure 5: Two different options for action if criteria are not met. Alternative 1 was chosen



With the help of the reference group, the decision was made to go for Alternative 1. This was mainly motivated by its simplicity, and the wish not to complicate things too much. In addition, the certification system is likely to be more understandable if it is as clean-cut as possible.

## 2.8 Revision of criteria

The original set of criteria included 38 criteria divided into eight groups:

- Information, transparency and reporting.
- Collecting.
- Sorting.
- Recycling.
- Re-use (including sales).
- Export.
- Environmental performance.
- Social performance.

Based on new insights and experience gained in the project, as well as results and feedback from the trials, the project group suggested several changes to the original criteria. The suggestions were discussed in detail during the second reference group meeting. The revision of the criteria together with motivation for the need to revise or add/delete criteria are presented below. Please note that only the criteria subject to change are presented in Table 1 (without numbers). The numbering of the criteria has changed as a result of the revision. The final lists of criteria are presented in Appendix 4 (collection of textiles for re-use only) and Appendix 5 (collection of textiles for re-use and recycling).

**Table 1: Revised criteria with motivation for revision**

Original criterion	Revised criterion	Motivation for revision
All statements in the code of conduct stated as "shall" shall be verifiable during certification or recertification.	Criterion is removed	The criterion is deleted and instead inserted as a statement in the checklist.
Traceability of textiles shall be possible until end users being either private customers or recycled products.	Traceability of textiles shall be possible from collection to the input of C1-C5 (see flow chart i checklist), i.e. the collector shall be able to document the quantities of sorted textiles sent to second-hand sale in the sorting country, second-hand sale in a third country, recycling, energy recovery, and incineration without energy recovery or to landfill.	A definition of end-users was needed.
The collector is responsible for gathering all downstream information. If cooperation is made with a downstream signatory, the combined activities shall fulfil the criteria.	The collector is responsible for gathering the required information. This includes relevant information from third party organisations required to fulfil the criteria.	The wording "All downstream information" was considered too vague.
Documentation shall include receipts of all transfer of textiles to and from signatories and sorters, resellers or recyclers. Sorters, resellers and recyclers shall be able to verify the fate of received textiles (overall or specific to signatory) either directly with receipts or via third party certification.	Documentation shall include receipts of all transfer of textiles to and from collectors and sorters, resellers or recyclers. Sorters, resellers and recyclers shall be able to verify the fate of received textiles (overall or specific to signatory) either directly with receipts or via third party certification.	"Signatories" was changed to "Collectors" as the term signatories turned out to be confusing.
All collected textiles shall be documented with weight or volume and source of origin.	All collected textiles shall be documented with weight and source of origin.	Data cannot be compared, or aggregated, if some actors use weight and others volume. It is better to specify that weight must be used. Volume is a less accurate measurement, due to estimations and different densities. The minimum requirement is to weigh collected textiles at reloading stations and in shops, which is clarified in a footnote in the checklist.
Collectors shall accept all other textiles that are clean and non-hazardous. This includes torn, worn-out and incomplete textiles (e.g. single socks). This should be made clear to the consumer.	Collectors shall accept all textiles, i.e. both textiles for re-use and textile waste. This includes torn, worn-out and incomplete textiles (e.g. single socks). This should be made clear to the consumer.	The collectors do not know how to approach the criterion. How should they know if they receive textiles containing hazardous substances? Consumers cannot separate between textiles containing hazardous substances, and textiles with no risk. There is not normally any information provided to consumers about hazardous substances in clothing (even if they are present). Hazardousness of textiles is a very important issue, but should mainly be considered in the production stage of textiles. Emerging knowledge can be incorporated into the certification system when it is more practicable. What is clean is subjective, and is not considered relevant in the criterion.
There shall be clear and correct information about the collection including name and contact information to the collector, reference to the system and the main purpose of the textile collection.	It should be made clear to the person delivering/donating textiles to collection actors where the textiles are going, the purpose of the collection, who is performing the collection and how to find more information about the certification system. The same criterion was previously listed twice, for in-store collection and kerbside collection. The revised criterion is for all types of textile collection.	"Reference to the system" from the criterion was removed as it is not possible for the collector to fulfil the requirement in the first audit (as they are not certified). There was also a need to generally re-formulate the criterion.

Original criterion	Revised criterion	Motivation for revision
Information on which products are accepted in the collection shall be clearly stated to the consumer. This must be in agreement with the requirements under section 3.1 of this Code of Conduct.	Information on which products are accepted shall be clearly stated to the consumer.	The criterion has been shortened and more simply explained. The criterion was originally only for kerbside collection, but is in the new set valid for all kinds of collection systems.
Kerbside collection: The collector shall specify which day collection will take place.	Criterion is removed	The criterion was removed as it was considered irrelevant. If such information is needed, for instance if households need to put the bins out to enable collection, the criterion is obvious and not needed. If the households do not need to be involved in the collection (put bins out), information about the collection day is irrelevant.
Container collection: Textile containers shall only be placed after having achieved a permit for doing so by the competent authority and/or land owner.	Container collection: Textile containers shall only be installed once the relevant documented authorisation has been obtained from the local authority and/or land owner.	Permit was replaced by documented authorisation to make the criterion more flexible.
Container collection: There shall be clear and correct labelling of textile containers including name and contact information to the collector, reference to the system including logotype and the main purpose of the textile collection.	Criterion is removed.	The criterion was removed as equal requirements are included in another criterion.
Container collection: Stickers or similar shall be placed on the lids of the bins stating which materials are accepted in the collection. Information in several languages may be used when appropriate.	Criterion is removed.	The criterion was removed as equal requirements are included in other criteria.
Container collection: Container sites shall be well-maintained and the immediate area around the container shall be kept free from waste or textiles.	Container sites shall be well-maintained and the immediate area around the container shall be kept free from litter.	"Textiles and waste" was replaced by "litter".
Sorters shall not accept textiles that originate from illegal collection or textiles with uncertain origin.	Collectors shall require documented assurance from their contracted sorters that the sorters do not accept illegally collected textiles.	The criterion is reformulated to be targeted on collectors.
Sorters shall report sorting performance in percentage by weight or volume of received textiles whose next stage is in: Re-use. Recycling. Incineration with energy recovery. Landfill or incineration without energy recovery.	Sorters shall report the annual amount and the share of the sorted textiles that are sent to: Re-use Recycling Incineration with energy recovery Landfill or incineration without energy recovery Sorting results according to C <sub>4.2-4.5</sub> can be given to a collector either as specific to their textiles (if available) or as the average fractions of the sorting not specified for any specific supplier.	The meaning of sorting performance was not clear.
Sorting performance as described above shall be given for each specific supplier or as the residual of received material not included in sorting performance for a specific supplier.	Criterion is removed.	The requirements are incorporated in criteria 4.2 to 4.5.

Original criterion	Revised criterion	Motivation for revision
Recyclers shall report the level of recycling in percentage weight or volume of received textiles and the distribution between recycled products.	Criterion is removed.	The criterion was removed as it outside of the decided system boundaries.
Recyclers shall report the fate of recycling residues.	Criterion is removed.	The criterion was removed as it outside of the decided system boundaries.
The percentage of sold (or donated) used textiles as a share of received used textiles together with the fate of unsold textiles shall be reported. Only the sold or donated (actually re-used by a final user) textiles may be included as re-used.	Criterion is removed.	The requirements are considered covered by other criteria.
Equal rules as described in this code of conduct apply for export of textiles as for domestic sorting, re-use (sales) and recycling. Other existing third party certification ensuring compliance with the criteria of the certification may be used as documentation for international actors.	Criterion is removed.	This criterion is considered more as a piece of information than a criterion.
Collected textiles shall be treated according to the Waste hierarchy stated in the waste framework directive (2008/98/EC).	Criterion is removed.	The information is instead inserted in the checklist as a statement under "Environmental performance". Verification of such a criterion is difficult.
At least 90% of collected textiles shall either be re-used or used as input for recycling (annually). The recycling should have a material efficiency of at least 60%. Recycling of textiles not suitable for re-use shall be according to best available technique with priority given to closed loop recycling before low grade recycling.	At least 90% of collected textiles shall either be re-used or used as input for recycling (annually).	The material efficiency of recycling was erased as the system boundaries were decided to end at the input to recycling. The text about low-grade recycling was considered too vague.
All signatories shall in all stages of the textile life cycle actively work towards an efficient management of textiles. This includes transports, facilities and all other activities related to the collection, sales/re-use, sorting and recycling of textiles.	The collector shall present actions plans for increasing the amounts of textiles that are dealt with according to the waste hierarchy.	This criterion was considered more relevant to pose than the original criterion.
All signatories shall work towards the removal of used textiles known to contain hazardous or otherwise unwanted chemicals.	Criterion is removed.	Hazardousness of textiles is a very important issue, but should mainly be considered in the production stage of textiles, and in sorting processes for recycling. Emerging knowledge can be incorporated into the certification system when it is more practicable.

### 2.8.1 Clarifications of social benefit criteria

The criteria for social performance needed to be clarified as their meaning was not explicit enough, neither to the collectors, nor to the interim auditors. The wording social performance was considered incorrect as the criteria are about collectors complying with social benefit status, and not about social performance in general. The headline under which the social benefit criteria were grouped was therefore changed from "Social performance" to "Social benefit".<sup>3</sup>

The clarifications to the social benefit criteria developed in the implementation project are presented below. A socially beneficial actor shall fulfil at least six of the ten following criteria.

*Social benefit Criteria 1:* "Reinvest profits in own enterprise, similar enterprises or a charity" means that any profits from used textiles should be used for reinvestment in the organizations management of used textiles or given to an organization (which can be an owner) also meeting at least six of the criteria listed or meeting criteria number 6.

*Social benefit Criteria 2:* "Be non-profit" means that no profits are given to any kind of owner, shareholder or other actor. Profits are used either to further develop the organization's internal management of used textiles or for purposes included in any of the remaining criteria.

*Social benefit Criteria 3:* "Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed" is self-explanatory. A substantial part of the employees should fit into this category.

*Social benefit Criteria 4:* "Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership)" means that most or all of the co-workers have a say in how the organization manage the used textiles and run their organization. (It is a mean for empowerment connecting to criteria 3).

*Social benefit Criteria 5:* "Be structurally independent from the public sector" means that the organization should not be part of the public sector. It does not mean that it should not cooperate or receive funds or grants from the public sector for purposes included in any of the remaining criteria.

*Social benefit Criteria 6:* "Be certified as having charity status" can differ between countries. In Sweden the go-account given by Svensk insamlingskontroll is a valid certification. In Norway an approval by Innsamlingskontrollen is a valid certification. In Denmark an approval by ISOBRO is a valid certification. In Iceland there is no "certification for charity status". Actors who use all their profits for charity purposes are accepted on a list managed by "Statistics Iceland". These actors also have a certain status when it comes to taxes, given that charity is their only goal according to their constitution. If actors are on the list managed by "Statistics Iceland" social benefit criteria 6 is fulfilled. For Finland, the charity status needs to be further explored.

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<sup>3</sup> The social benefit criteria are inspired by the criteria for social enterprise used by the Swedish Agency for Economic and Regional Growth and the Swedish "go-konto".

*Social benefit Criteria 7:* “Mainly be operated by volunteers” means that a majority of persons involved in the management of used textiles shall be without reimbursement for their services.

*Social benefit Criteria 8:* “Have clear and transparent economic accounting” means that documentation must be clear enough to make it possible to verify that the other criteria is fulfilled. If criterion 6 is fulfilled either by Svensk Insamlingskontroll or Innsamlingskontrollen, this criterion is automatically met.

*Social benefit Criteria 9:* “Have as main purpose to protect human equity and equal rights” means to have as main purpose to strengthen and protect human equity and equal rights by different means, be it economic, lobbying, education or other.

*Social benefit Criteria 10:* “Have as main purpose to improve living conditions for humans living under particularly difficult conditions” means to improve living conditions for humans living under particularly difficult conditions by different means, be it economic, work training, aid, education or other.

*Uncertainty of fulfilment of criteria:* The definitions of socially beneficial organizations are not always clear cut as extensively discussed in the reports used as basis for the chosen criteria. If there are uncertainties to whether an organization meets the criteria for social benefit the auditor may present the uncertainty to the CSO. The CSO then consults the certification committee which will evaluate and propose a recommendation. The system operator makes the final decision.

## 2.9 Need for two types of certification

The original idea with the certification system was to put pressure on textile collectors to not only collect textiles for re-use, but also textiles that can be sent to recycling. This was to encourage increased collection, and to divert textiles that currently end up in residual waste fractions to energy recovery. The reason for such a criterion was also to avoid “cherry-picking”.

At the start of the project, the Finnish representatives in the reference group flagged up this criterion was problematic, as it requires textile collectors to also handle waste, which comes with legislative requirements that the collectors need to meet. This could be challenging, especially for smaller actors that do not have the resources to comply with such requirements. This issue was also brought up in the previous project, especially the possible effects on the municipal monopoly on household waste. Possible effects were, however, not investigated further. Palm *et al.* (2015) mentions that “when textile waste is under the municipal waste monopoly it cannot be collected without an agreement with the municipality. However, it is strongly encouraged to collect textile and textile waste in a mixed fraction as part of such an agreement since it is deemed impossible for the consumer to make the distinction”.

This issue was in other words looming for a long time without clear answers on how the certification system should tackle this issue. In March 2016 it was raised with NWG. Based on their feedback, it was decided that there should be two types of certification: one for collection of textiles for re-use only and one for textiles aimed for re-use and

textile waste for recycling. This was considered unavoidable as the requirement to collect all textiles would mean that collectors need to have authorisation to collect waste, and also have authorisation to collect textile waste on municipalities' behalf. This was also confirmed in the legal assessment report (Aagaard Truelsen and Janfelt, 2017), Appendix 7. There is an immediate risk that this burden will be perceived as too heavy, especially for smaller actors, who instead might decide not to apply for certification. Collectors should have a choice to collect or not collect textile waste.

The initial interpretation of national legislation in the Nordic countries by members of NWG is that collection of all textiles is waste management, as textiles that would otherwise end up in the residual waste fraction are diverted to the textile fraction.

The reference group was consulted about this new development in the project. Different views were raised. The most common view was that the interpretation of collected textiles as waste was negative. The main idea with the certification system was to put pressure on textile collectors to not only collect textiles for re-use, but also textiles that can be sent to recycling. It was feared that introducing two types of certification could jeopardize this. However, there were also comments that despite that textiles aimed for re-use are collected, there will always be a share of the collected textiles that are not re-used, but instead sent to recycling, incineration or landfill, also according to current practice. Having two types of certifications is mostly about formalities, and the information communicated to the public.

Despite the negative response, NWG could not implement a system which is not in line with the current legislation. In Directive 2008/98/EC on waste, preparing for re-use, recycling, recovery and disposal are regarded as waste treatment, whereas re-use is a preventive measure before the product has turned into waste. This distinction makes rules and regulations different for re-use and for recycling and recovery. The need to legally assess the criteria, and in particular this issue, in more detail was raised. A legal assessment was therefore procured by the NWG on behalf of the Nordic Council of Ministers. The deadline for the tender was set to 29th August 2016. The aim of the legal assessment was to make a general analysis of the legal compliance of the criteria, but also to make it clear what the collectors wishing to collect textile waste need to do on a practical level (permits, authorisation etc.).

According to results from the legal assessment (Appendix 7), implementing two certificates, as described above, is in line with EU legislation as well as legislation in the Nordic countries.

Two types of certificates meant that there was also need for two different sets of criteria and two accompanying checklists. The checklists are presented in Appendix 2 (for collection of textile aimed for re-use only) and Appendix 3 (collection of textiles for re-use and recycling). Two criteria were added for collection of textiles for re-use and textile waste. Apart from these two criteria, and different re-use and recycling targets, the set of criteria and the checklists are the same, but in some instances worded slightly differently depending on the type of certification.

**Table 2: Main differences in the set of the criteria linked to the two certification types**

Criteria for collectors applying for certification for collection of textiles for re-use and recycling	Criteria for collectors applying for certification for collection of textiles aimed for re-use only
Collectors shall accept all textiles, i.e. both textiles for re-use and textile waste. This includes torn, worn-out and incomplete textiles (e.g. single socks). This should be made clear to the consumer.	-
The collector shall have permission to collect waste as stipulated under national waste legislation in place in the relevant country(s).	-
At least 50% of collected textiles shall be re-used (annually) either by charity re-use, domestic sales or by export to an organization guaranteeing the level of re-use.	At least 80% of the collected textiles aimed for re-use shall be re-used (annually) either by charity re-use, domestic sales or by export to an organization guaranteeing the level of re-use.

## 2.10 Deviations from original project plan

According to the original project description the trial was supposed to take place in one larger region and in one municipality. For that reason, but also as a way of communicating the commitment on a local level, Copenhagen, Malmö and Halden municipalities were engaged in the project. They were involved both as regions where the trial was supposed to be performed, but also as reference group members to make sure that views from local authorities as important actors in the management of used textiles and textile waste were heard in the project.

The original idea was therefore to certify the participating collectors and allow them to use the certification communication material in the larger trial region and the smaller municipality to evaluate the results from having certified collection.

There are several reasons why an evaluation of certified textile collection was not possible to perform in the trial regions:

- The checklists to be used by the collectors proved to be a heavier challenge, and thus more time-consuming than expected, and a primary reason why the project was delayed. Also the compilation of evidence and documentation to prove that the collectors complied with the criteria took a lot of time and effort from the collectors. This time is expected to decrease when the certification system is operational, but highly depends on how the collectors have organised information and documentation within their organisation. All of the original criteria were not clear enough when reaching the practical level.
- The need for a process about the requirements (e.g. competence and ISO certification) for trial auditors was not foreseen. This meant that engaging interim auditors was more time consuming than expected.

- Not all collectors complied with all criteria. Thus, certification was not issued within this trial project. This meant that evaluation of certified collection was not possible.
- Two types of certificates were needed, but these were not developed at the time of the trial.
- The criteria were revised in the project, which meant that the certificates could not have been issued for the new sets of criteria.

Evaluation of certified collection was listed as part of the project description, and the lack of this evaluation is a deviation from the original plan. Even if the participating collectors had complied with all criteria, the project group would not have issued certificates. To do so would not be fair to other collectors who did not have the chance to participate in the project. By participating in the project the collectors have gained experience and knowledge, which is likely to mean that they have an advantage over other collectors when the certification system is launched.

## 3. Results from the audit

The whole implementation project can be regarded as a trial as it has been a continuous and iterative process with the reference group, the participating collectors, NWG and the project team. In this chapter a part of the trial is described, namely the audit with the participating collectors.

### 3.1 Myrorna

Myrorna's commission is to work for a more human and sustainable society by generating a financial surplus to the social work of the Salvation Army. The financial surplus is created by sales of products for re-use and by work training. Myrorna collects textiles in second-hand shops (34), in collection containers (1,200) and collects on demand from households and businesses in over 120 Swedish municipalities. They communicate that they accept "clean and dry" textiles. In addition to the collection points Myrorna holds nine production units where the collected items are sorted into different fractions. In 2014, Myrorna collected in total 7,800 tonnes of textiles, and 4,500 tonnes of items (excluding furniture). The figures make Myrorna the largest collector in Sweden. Myrorna works actively to increase the collected volumes by making donation easier (Myrorna, 2014).

The collected textiles are mainly sold for re-use, both in Sweden and abroad, but also sent to recycling. As a last option, when neither re-use nor recycling is possible, the textiles are sent to energy recovery. 73% of all collected textiles were exported for sorting in 2013 after pre-sorting in Sweden. Together with Fretex in Norway, Myrorna co-owns Fretex International who is in charge of the export to the foreign market. In 2013, the majority of the textiles for export were sent to Poland (ibid).

#### 3.1.1 Audit

The one-day audit of Myrorna took place in January 2016 by auditor Rolf Eriksen from Miljöfyrtorn. The audit included site visits to a production unit where sorting of collected textiles takes place, as well as to one collection point. The remaining audit time was spent going through documentation criteria at Myrorna's head office. Parts of the project group took part in the audit, mostly for taking notes and increasing the understanding.

*Auditor:* Miljöfyrtorn, Rolf Eriksen.  
*Audit date:* 19th January 2016, (after pre-meeting with Fretex International).  
*Place:* Myrorna head office in Årsta. Visit to sorting facility in Tungalsta, sorting facility in Sättra, and to recycling center.

Prior to the audit Myrorna had filled in the checklist and compiled documentation they considered relevant to prove compliance with the criteria. A preparation meeting was also held before the actual audit in Stockholm.

### Views from Myrorna

The structure of the checklist proved to be a problem as Myrorna thought it was difficult to get an overall picture of the requirements. A more process-oriented structure would facilitate the understanding as well as a flow chart. It was also a challenge to know the level of detail required in the documentation, as well as the more precise documentation requirements. Gathering data and documentation had been time-consuming as it is not centrally organised at Myrorna. Including clear documentation requirements as opposed to posing questions in the checklist have significantly improved the structure and understanding of the checklist. The checklist now also includes a flow chart.

The audit was useful in order for Myrorna to get more thorough understanding of their own organisation and to identify missing pieces and weaknesses.

### Views from the auditor

The audit showed that Myrorna has good routines for management of the collected textiles. The routines are, however, not always in a written format, and not followed in a consistent way at different locations. The main efforts to be made by Myrorna in order to comply with the criteria are to document the routines that are now communicated verbally, and make sure the routines are implemented in the same way at all locations. The collected textiles are not weighed in the entire value chain, which made it difficult for the auditor to verify quantitative data over textile flows. Written permissions from municipalities showing that Myrorna is allowed to put up collection containers on public land were not compiled in a sufficient way.

The auditor's view on the checklist and the first version of criteria was that it is difficult to understand the aim of the criteria based on the checklist. Miljöfyrtorn interprets the criteria as if quality management of the processes in the value chain is key. The requirements on documentation should be more precisely explained (routines, follow-up etc.). Definitions used in the criteria need explanations.

## 3.2 UFF Denmark

UFF is part of the International organisation "The Federation for Associations connected to the International Humana People to People Movement (FAIHPP)". UFF collects textiles in Denmark through a network of collection points in public places, private sides, and municipal recycling centres. These textiles are collected and transported to one of three warehouses in Denmark, where they are re-packaged and obvious waste materials removed. They are then shipped to one of six sorting plants throughout eastern and southern Europe. From here, the textiles are shipped to sales

locations in local markets or to African countries for sale on the second hand market after further sorting.

In 2015, UFF collected 1,700 tonnes of “original textiles” at collection points in Denmark. Of this quantity, approximately 694 tonnes were shipped to a facility in Turkey for sorting, 302 tonnes to a Bulgarian facility, 260 tonnes to a Slovakian facility, 220 tonnes to a Lithuanian facility, 161 tonnes to a Bulgarian facility, four tonnes to one Polish facility and 19 to another, and 18 tonnes to a Belgian facility.

The income from sold textiles is used for charitable purposes in a wide variety of projects and actions across the African continent.

### 3.2.1 *Audit*

The audit of UFF by Bureau Veritas was a collaborative process through November and December 2015 and January 2016. However, the official audit took place on 16th December 2015 and 5th January 2016. It was a complex process for UFF to collect all of the required material, particularly with the rather loose definition of system boundaries in the process at this time. It was conducted by Michael Fich, a technical chief consultant at Bureau Veritas and comprised on site visits and thorough examination of documentation from UFF.

*Auditor:* Michael Fich, Bureau Veritas.

*Audit date:* 16th December 2015, 5th January 2016.

*Place:* UFF Denmark headquarters, site visits.

### *Views from UFF*

UFF found the process itself taxing, but equally enlightening, and they can see a clear benefit from both the process and the certification itself. The complexity of their system, in that UFF is part of a larger global organisation, led to additional complexity and uncertainty, particularly in establishing system boundaries for the certification. They also noted the difficulty in establishing the exact quantities of textiles going to re-use, recycling and recovery, as it was not and will not be possible to trace the textiles collected in Denmark all of the way through the sorting process – particularly because sorting plants typically accepted textiles from multiple sources, not only UFF Denmark. To address this, UFF used the average figures for each of their sorting plants from a 2013 survey conducted by MEPEX. They also mentioned the need to be specific about the level of detail required on where textiles are collected. In addition, they raised specific questions regarding:

- How is “the recycling material efficiency rate” defined / measured?
  - Result: Reference to the material efficiency of recycling was removed as the system boundaries were decided to end at the input to recycling.
- Exactly which BAT definitions do we go by?
  - Result: Reference to BAT removed during criteria revision.

- What is the definition of “Closed loop”?
  - Result: Reference to “closed loop” removed during criteria revision.
- Which are our definitions of “high grade” and “low grade”?
  - Result: Reference to “high-grade” and “low-grade” removed during criteria revision.

UFF also questioned the suitability/viability of the social criteria and the verification process behind fulfilment of them.

### Views from Bureau Veritas

Bureau Veritas cooperated with UFF in the preparation of the material and the interpretation of the questionnaire document. They had some specific questions related to how that document should be interpreted, but these have been addressed in the subsequent iteration of the document. The main thrust of these comments was, however, that the questionnaire document (checklist) needed be much more explicit about the specific information demands on the collector. These comments have been addressed in the checklist presented along with this report.

## 3.3 Fretex

Fretex is Norway’s largest rehabilitation company and second-hand chain. It is an important part of the Salvation Army in Norway. Since Fretex’s beginnings in 1905 (as the industrial home *Elevator* in Oslo), it has focussed on giving people a reason to believe in their future. Today there are approximately ca. 2,000 people working in Fretex, of these about 1,600 are job seekers participating in different rehabilitation programmes. Fretex has activities in most of the counties in Norway, where they collaborate with government agencies, private sector, donors and customers. In 2015 Fretex collected 15,580 tonnes of textiles, 14,280 tonnes were exported. In 2015 Fretex achieved an overall re-use rate of 83%, a recycling rate of 14% and an energy recovery rate of 4% (Berker 2016).

### 3.3.1 Audit

The two-day audit of Fretex took place in January 2016. The audit was performed by Jan Berker, BetulaConsult (Miljøfyrtårn certifier). The audit included site visits to a sorting facility, a selection of collection boxes, and a second-hand shop. The remaining audit time was spent going through documentation criteria at Fretex’s head office.

*Auditor:* Miljøfyrtårn, Jan Bjerke (BetulaConsult).  
*Date:* 27th and 28th January 2016.  
*Place:* Fretex’s headquarters in Ole Devik’s vei in Oslo. Visit to sorting facility in Oslo (same location). Additional site visits to a selection of collection boxes and the Fretex second-hand shop in Ole Devik’s vei, Oslo.

Prior to the audit, another Miljøfyrtårn auditor (Rolf Eriksen) had advised Fretex on the information they would require to fulfil the audit criteria. Fretex obtained this advice in order to be well prepared for the subsequent audit. This process also provided input back to the project team about strengths and weaknesses in the draft check-lists before they were adjusted for the first trial audits.

#### Views from Fretex

The audit was more extensive than was first expected, but since this was the first time for this type of audit, Fretex was not surprised. Finding the data, documents and information required took quite a lot of time, however this was also a useful exercise. Fretex learned a lot from the process. The documentation and data will now be more easily available for a future audit, and Fretex discovered many issues they could improve on and got many useful tips from the auditor for future improvements.

#### Views from BetulaConsult

Based on the audit carried out, Fretex Øst-Norge AS fulfils the criteria, on which the audit has been based. During the audit some unclear aspects were identified:

- How “deep” should the auditor delve into the documentation? Is an audit in line with the principles for ISO-certification desirable, or is it Ok with a more “low-threshold” certification?
- Some of the criteria were harder to verify than others, e.g. those in Chapter 9.
- It is difficult to establish routines for checking whether collected textiles can contain hazardous substances.
- Some of the terminology used is not clearly defined:
  - Is “energy recovery” included in “recycling”, or “waste”?
  - What are the delimitations / boundaries for “In store collection”?

These comments have been addressed in the revised checklist used for the H&M audit.

### 3.4 H&M Norway

H&M Hennes & Mauritz AB was founded in Sweden in 1947 and is quoted on Nasdaq Stockholm. H&M’s business idea is to offer fashion and quality at the best price in a sustainable way. In addition to H&M, the group includes the brands & Other Stories, Cheap Monday, COS, Monk and Weekday as well as H&M Home. The H&M Group has more than 4,000 stores in 61 markets including franchise markets. In 2015, sales including VAT were SEK 210 billion and the number of employees is more than 148,000 (H&M 2016).

H&M give customers a voucher in return for their unwanted garments as an incentive to hand in both damaged and unwanted textiles. In 2015 H&M collected 12,500 tonnes of unwanted garments in total globally (H&M 2016). From 2013–2015

the amount collected was 30,000 tonnes in total. Out of these 30,000 tonnes around 40–60% goes to re-wear, around 10% to re-use, around 30% to recycling and finally only 1% that cannot be re-used or recycled gets incinerated.

### 3.4.1 *Audit*

A one-day audit of H&M took place in May 2016 by Rolf Eriksen from Miljøgrep (Miljøfyrtårn certifier). The revised checklist for collectors was used for the audit. The revision was based on experience and input from the first round of test audits for the other project participants. This enabled testing of the revised checklist. The first part of the audit process was completed on the 10th of May 2016. A thorough review of H&M's documentation was performed. This exercise highlighted some areas where further documentation was needed. At the time of writing, the second audit visit had not yet taken place.

*Auditor:* Miljøfyrtårn, Rolf Eriksen (Miljøgrep).  
*Date:* 10th May.  
*Place:* H&M Norway's headquarters in Oslo. Visit to 3 shops in Oslo.

Prior to the audit, H&M had gathered relevant documentation. During the audit process it became clear that more information was required from I:Co (the company H&M sells their collected textiles to). During the first audit there was not enough information about the final destination of textiles sorted at I:Co. Testing some specific batches of H&M collected textiles was proposed as a method of acquiring the required data before a second audit visit.

### **Views from H&M**

Being part of the process to develop the audit checklists was useful. The trial audit was also a learning process. The revised checklists were an improvement on the first version, used for the first round of audits in the other companies. Finding the documents and data required a lot of time. There are challenges for companies like H&M that use a third party sorting, re-use and recycling partner, like I:Collect, which does not have specific data for what happens to the collected textiles from our specific company. The company average for the contracted partner is easy to get, but batch testing would be needed to be able to estimate our specific data. This is something that needs to be addressed in the requirements for the audit in the future. If contractor averages could be used, this would simplify the data gathering process. In order to complete the audit process more data was needed. Getting this data has not been possible within the time frame of this Nordic project.

### Views from Miljøgrep

The audit process was not complete after one day. Further information was needed. This is summarised in the following list:

1. Some written procedures and an overview of the collection chain.
2. Lack of documentation of what happens with the textiles H&M has collected in the Nordic countries at I:CO in Germany. The overall data is available for the whole sorting facility, but not H&M specific data.
3. Documentation to check potential losses during international transport was lacking.
4. Documentation of procedures for avoiding theft during the collection value chain (in-store and drivers).
5. There is no current information about H&M also collecting shoes, handbags, accessories etc.

In order to obtain the H&M specific data (b above) the auditor suggested test samples of H&M textiles be followed through the I:CO facility and their final treatment (C1–C5 in the checklist flow chart) rates logged. A specified number of sample batches could be used to estimate the overall data for H&M in a given year. In order to provide documentation for c (above), H&M could provide data for weighing of amounts collected and made ready for transport to Germany (normally weighed before sending to I:CO) and I:COs data for the weight of the deliveries.

During the audit some unclear aspects were identified:

- Is the lack of information described as e (above) non-compliance, or not?
- Giving a 10% discount to customers per plastic bag delivered to the shop a kind of payment for collection. Is this OK?

This last question is also a question that would face some other collectors in Norway that pay municipalities to be allowed to collect textiles in their municipality (as a tactic to win tenders for textile collection). This is therefore not an issue that is peculiar to H&M. The issue of shop collection being at odds with Waste legislation in Norway (requiring shops to be approved waste collectors) was also identified as a problem during this audit.



## 4. The certification system

Chapter 4 presents how the project team suggests that the certification system should work. This is based on the trial results and experience gained in the implementation project.

The certification system is illustrated in Figure 7.

Figure 6: Illustration of the certification system



### 4.1 Criteria

The final sets of criteria, one for collectors of textile for re-use only and one for collectors of textile for re-use and recycling are found in appendices 4 and 5. The criteria can also be found on the website, [www.textilecommitment.org](http://www.textilecommitment.org). There are 23 criteria for the certification for collection of textiles for re-use only, and 26 criteria for collection of textiles for re-use and textile waste for recycling. For each set of criteria there is also an additional criterion if the collector wishes to claim social benefit status.

### 4.2 Checklists

The final collector's checklist comes in two versions corresponding to the two sets of criteria, one for collection of textiles for re-use only, and one for collection of textiles for re-use and textile waste recycling. These checklists can be found in Appendix 2 and 3 respectively and are also available on the website.

### 4.3 Auditor requirements

The final auditor requirements are presented below, and are also listed on the website. A list of *already used auditors* will be presented on the website. Collectors can therefore choose one of the auditors that have already been used by other collectors, or choose to involve others auditor meeting the listed requirements. The collector has to inform the CSO which auditor they would like to appoint, in order for the CSO to approve or disapprove, before entering into an agreement with the auditor. If the auditor has the necessary accreditations listed as "Requirement 1" in the box below, the CSO can directly qualify the actor to act as auditor in the certification system. If not (Requirement 2), a decision has to be made by the CSO and the certification committee about approval of the auditor.

Auditors that have not been used in the certification system before have to arrange a meeting with the system operator in order to fulfil Requirement 3. This is required for all new auditors. This meeting is a way of ensuring that "Requirement 3" is fulfilled and an opportunity for the auditor to learn about "The Nordic textile re-use and recycling commitment" certification and its aims. Requirement 4 is fulfilled if the auditor has no previous employment for the collector and no direct connection (e.g. ownership etc.). If the auditors have been a consultant for the company (e.g. to ensure that the collector's work will fulfil the requirements for certification), then they cannot audit the collector. The auditors can neither have a private or a working relationship with the organisation to be certified, nor with any of the employees in the organisation to be audited. Evidence of this can be in the form of a signed statement from the auditor, stating their connections (if any) to employees or organisations that are relevant. There can be connections that do not mean a conflict of interest, but the auditors need to document and describe this.

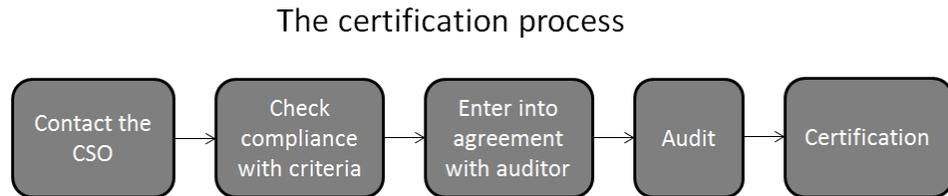
#### The auditor

- Must be part of a certification body with accreditation for ISO 9001 *Quality Management Systems* and ISO 14001 *Environmental management systems*, thus complying with ISO 17021 *Conformity assessment – Requirements for bodies providing audit and certification of management systems*.
- Exceptions can be made if the certification body is nationally recognised and approved by the CSO in consultation with the Certification Committee.
- Must have knowledge and understanding of the criteria of the certification system.
- Must be impartial and objective.

## 4.4 Certification process

The principles of the certification process are illustrated in Figure 8. Each step in the certification process is described below.

Figure 7: The general principles of the certification process



### 4.4.1 Step 1. Contact the CSO

The collector contacts the CSO by mail or phone and informs them of their ambition to apply for certification. The collector needs to inform the CSO about which type of certificate the collector aims for, and whether it is aiming for social benefit status or not. The CSO informs the collector about how to prepare for the audit, and how to find an auditor fulfilling the certification system requirements.

### 4.4.2 Step 2. Check compliance with criteria

The next step for the collector is to go through self-assessment using the checklists found on the website. The documentation to prove that the criteria are fulfilled needs to be compiled and available to the auditor during the audit.

### 4.4.3 Step 3. Agreement with auditor

When the collector feels that the necessary preparation is made the organisation needs to enter into agreement with an auditor. In order to do this, the collector needs to inform the CSO about which auditor they plan to appoint so that the CSO can make sure that the auditor fulfils the auditor requirements. The CSO then approves or disapproves the suggested auditor. In the case of new auditors (not used before) the CSO arranges a meeting with the auditor. The CSO does not interfere in the agreement between the auditor and the collector. The audit may start as soon as the agreement is in place, the auditor has had a meeting with the CSO, the auditor is approved by the CSO, and the collector has made the necessary preparations and consider that they comply with the criteria.

#### 4.4.4 Step 4. Audit

The auditor and the collector decide when the actual audit will take place. When the audit is finalised the auditor sends an auditor report to the CSO with information about the collector's compliance with the criteria. The content of the auditor report is presented in Appendix 6. If the criteria are fulfilled the certificate can be issued by the CSO. Certification means that the collector is allowed to use the system logos at collection points and in their marketing material (see 5.3). Each certified collector is given an individual certification number that should be visible on the logos.

The certification requires full compliance with all criteria. If the collector applies for charity status, the criteria for social benefit must also be fulfilled. If the collector fails to comply with one or several of the criteria, the collector has a maximum of 90 days from the audit date to correct minor deviations. If the deviations are far-reaching and cannot be solved within 90 days, the audit has to be carried out again in full.

The certificate is valid for three years from the date the certificate has been issued by the CSO.

Collectors are only permitted to use the system logos while the certificate is valid. The right to use the logos expires at the end of the certification period, or when the licensing relationship between the collector and the CSO ends in any other way. Should a former holder of a certificate continue to make use of the logos, without being re-certified, it is suggested that the CSO reserve the right to claim financial compensation, or at least withdraw the certificate. Such details have to be decided by the CSO and be part of the obligations that the collector enters into during certification. The Nordic Ecolabel, for example, claims EUR 4,000 for infringement of the logos.

The checklists are designed to enable the collectors to prepare for the audit. They include the criteria for transparency and environmental performance, but also specific documentation requirements for each criterion to be fulfilled by the collector. The auditor and the collector decide where is most suitable for the audit to take place; generally the head office is preferred as a starting point. The auditor goes through the documentation the collector has provided to prove compliance with the criteria. In addition to the documentation, site visits are needed as collection of textiles commonly occurs at multiple collection points, and is sorted and sold (or donated) for re-use at various locations. The need for site visits to sorting facilities was discussed at the last reference group meeting. The reference group suggested that site visits to sorting facilities are not needed as criteria related to sorting can be sufficiently checked without site visits. However, in order to check compliance with criteria 2.1, 2.3, 2.4 and 2.10 (see Appendix 4 or 5) collection points need to be visited. At the last reference group meeting it was decided that the number of site visits to collection points should be dependent on the number of collection points a particular collector has. The requirement is presented in Table 3.

**Table 3: Need for site visits**

Number of collection points	Number of site visits
0-9	2
10-99	5
100-999	15
1,000-5,000	25

In the case of an umbrella organisation with multiple legal entities, it is possible to certify the umbrella organisation and include all entities in one certificate. All legal entities thus have to fulfill the criteria.



# 5. Certification system operation

## 5.1 The CSO role

The certification system operator (CSO) is recommended to be responsible for the practical management and administration of the certification system. It should be the external window of the system and the primary contact for organisations that wish to certify their operations. The operator makes decisions with assistance from the certification committee. The mandate of the Certification Committee and its role in relation to the CSO role should be clear. The committee acts as an advisory board for the CSO. If the CSO and the Certification committee should disagree on an issue, the CSO is the body that has responsibility for the final decision.

Recommended responsibilities of the operator include:

- Registration of new organisations that wish to certify their business.
- Signing agreements with these organisations, including provisions regarding the use of logos and on sanctions in case of unauthorized use.
- Administration of system fees.
- Administration of registration documents, criteria document and checklist.
- Selection of third party auditors
- Issuing certificates.
- System website management including keeping the website up-to-date with correct information about the certification system and information about certified actors.
- Labels and communication materials.
- Managing/administration of the certification committee: duties include arranging meetings, producing background documents and meeting minutes.
- Gathering and compiling statistics on collected amounts of original textiles, re-used amounts of textiles and recycled amounts of textiles from the certified collectors on an annual basis. Presenting the statistics on the website.
- Writing a newsletter on a regular basis and keep a list of subscribers to the newsletter.
- Communication about the certification system to the general public and on a business-to-business level.

One potential business model for a future CSO could be based on producer responsibility principles, as is the current French system (Gram Hanssen *et al.* 2016). This is the same type of business model as for packaging in the well-established Green

Dot System, as run by organisations like Grønt Punkt Norge (GPN) in Norway. A small fee per imported or produced textile product would build a base to finance common needs, such as marketing of collection to consumers and performing the CSO role. A producer responsibility approach to fees would mean that municipalities and charitable organisations collecting textiles would not pay for the scheme. This would be in line with examples like packaging and electronics. The producer responsibility scheme approach is shown in more detail in Gram-Hanssen *et al.* 2016. Voluntary schemes are currently successful for packaging and electronics in Norway; where industry has been the driver for voluntary schemes to achieve targets for collection and recycling, in order to simplify the regulatory burdens and reduce costs. Mandatory schemes (e.g. in France and Sweden for some material fractions) are also possible.

In the following Chapters, the CSO responsibilities are described in more detail.

## 5.2 Characteristics of a future Certification System Operator

The project team suggest a system where the Certification System Operator (CSO) will be appointed by the NWG on behalf of the Nordic Council of Ministers to run the certification system. NWG will probably put the CSO role out to tender in an open tender process. Initial funding from NWG will cover the costs for setting up the system, and adapting it to the CSO's ordinary business.

It is important that the CSO has legitimacy and trustworthiness perceived by industry stakeholders and the general public. Two different business models can be chosen for the certification system operation as described in Palm *et al.* (2015). The first is to engage existing organisations that already are involved in relevant activities, and the second to establish a new organisation to take the role as CSO. The project team has been in contact with several organisations that have shown interest in taking the role as CSO. However, from the discussions with potential CSOs it is clear that initial funding from NWG is needed regardless of which organisation that takes over as CSO. Initial funding is needed to cover costs for:

- Making final adjustments that cannot be made by any other actor.
- Communicating that the certification system is operational.
- Possible adaptations to the organisation's own operations.

From a cost perspective the project team suggests that an organisation already involved in related activities should be chosen. This is suggested as the time spent on the CSO role is estimated, but still uncertain, and thus also the related costs. The CSO role is not expected to require a full-time position, except for during the initial start-up (see Chapter 5.5). It is seen as beneficial that the CSO has other operations in addition to the CSO role, in order to have relatively low overhead costs (shared between several work areas). The project team would also recommend NWG to consider an actor with knowledge and experience of similar activities. This would enable an efficient hand-over of the project, as well as

providing knowledge from their existing activities that can contribute to the Nordic textile commitment from a different angle. Engaging a “new actor”, without similar previous experience, is likely to be more costly and time-consuming.

Three principally different models for establishment of a CSO organisation in the Nordic region were presented in Palm *et al.* (2015):

- One common CSO for the whole Nordic region.
- National independent CSOs.
- National CSOs within a common Nordic structure (“Holding company”).

Based on experience from this project, the project group proposes one common CSO for the whole Nordic region. Splitting up the responsibilities between several organisations is not seen as beneficial. Having one overall Nordic CSO facilitates the procurement for NWG, as well as facilitating the delivery of the certification system for this project to the future CSO. Using one organisation is likely to be the fastest route to achieving a certification system that is up and running. A Nordic CSO will also ensure consistency for all Nordic collectors.

#### **5.2.1 Selection process**

As NWG appoints the future CSO, the role of the project team is to suggest and facilitate the selection process. NWG is likely to procure the role as CSO, including support for initial funding for getting the system operational, on a one or two year basis. After this initial one to two-year period, the certification system should be able to bear its own costs and continue without additional funding from NWG. The project team suggests that the actors applying for the CSO role should be able to show evidence that they have experience and competence in several relevant areas:

- Experience with third party certification systems or similar.
- Experience in communication to the general public as well as business-to-business communication.
- Experience in hosting websites.
- Experience in administration, for example fees and costs covered by members.
- Experience in working at the Nordic level.

The organisation shall also be asked to clearly motivate and explain:

- The motivation for the organisation’s interest in the CSO role and the driving forces behind this interest.
- How the CSO role would fit into the organisation’s ordinary operations.
- The organisation’s experience in working with textiles and textile waste.

At the third reference group meeting, the reference group suggested that the CSO should be non-for-profit. This should be clearly stated in the call for tenders.

### 5.3 Communication material

Communication will be managed by the CSO, and also the distribution of logo stickers. A CSO will need a communication plan, which will need more thorough work when the CSO is appointed. The following information should be regarded as a first proposal, which the appointed CSO would be expected to elaborate on.

It is essential that consumers can identify certified collectors. To this end, logo stickers are suggested to be used to distinguish the collection bins of certified organisations from other actors collecting textiles. The logo can only be used by certified actors, and it suggested that this should be protected by copyright. The stickers should be placed on collection containers and be large enough to be clearly visible. Four different versions of the logo stickers are needed.

1. One for actors collecting textiles for re-use and recycling.
2. One for actors collecting textiles aimed for re-use only.
3. One for actors collecting textiles for re-use and recycling, and fulfills the criteria for "social benefit".
4. One for actors collecting textiles aimed for re-use only, and fulfills the criteria for "social benefit".

Proposals for the stickers are presented below. The stickers should be available in English, Danish, Swedish, Norwegian and Finnish. However, the words "The Nordic textile re-use and recycling commitment should always be in English.

The stickers contain the commitment logo and a link/barcode to more information. The information revealed when using the barcode could be the following:

The Nordic textile re-use and recycling commitment certification assures that textiles are handled by serious actors following strict criteria. The collected textiles are re-used and recycled in accordance with the waste hierarchy, and operations are reviewed by an independent third party. The commitment is voluntary and ensures sustainable and transparent handling of textiles for re-use and textile waste for recycling. The certification guarantees a re-use rate of at least 50% and 90% re-use and recycling. More information is available on [www.textilecommitment.org](http://www.textilecommitment.org)

For certified collection of textiles aimed for re-use only the information is slightly different:

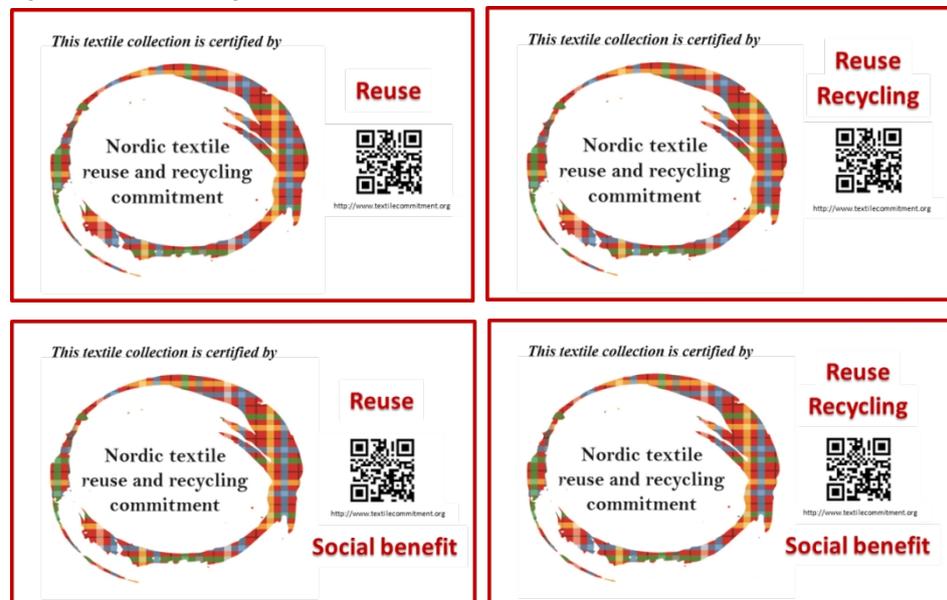
The Nordic textile re-use and recycling commitment certification assures that textiles are handled by serious actors following strict criteria. The collected textiles are re-used in accordance with the waste hierarchy, and operations are reviewed by an independent third party. The commitment is voluntary and ensures sustainable and transparent handling of used textiles aimed for re-use. The certification guarantees a re-use rate of at least 80%. The aim of The Nordic textile re-use and recycling commitment certification is to double the collection of textiles in the Nordic countries to 2025 compared to 2012.

The certified collectors are allowed to use the stickers as soon as their certificate is issued by the CSO. They can choose to use logos in the colours of “The Nordic textile re-use and recycling commitment” or in black/grey scale. Their certification number should be included on the logo before printing and using it. A date of validity is also suggested to be added to the stickers. To avoid misuse of the logo, an updated list of certified organisations should always be available on the website. The CSO is responsible for printing stickers in relation to the collector’s needs. This cost is separately charged to the collector.

According to the criteria it should be made clear to the person delivering/donating textiles aimed for re-use to collection actors where the textiles are going, that the purpose of the collection is to re-use or to re-use *and* recycle the textiles, and who is performing the collection.

Information about the system could also be provided in other formats, like brochures, posters etc., where appropriate.

Figure 8: Proposals of logotypes to be put on collection containers



This logotype can only be used by national governments and system operator(s).

Figure 9: Logotype to be used by national governments and system operator(s)



*Short texts* for communication to the general public, in brochure format, could for example be formulated as follows:

The Nordic textile reuse and recycling commitment certification assures that certified organizations follow strict criteria on traceability and environmental performance when collecting and handling textiles. The collected textiles will be re-used and recycled in accordance with the waste hierarchy, and all operations are reviewed by an independent third party. The certification is voluntary and ensures sustainable and transparent handling of used textiles. The aim of The Nordic textile re-use and recycling commitment certification is to double the collection of textiles in the Nordic countries to 2025 compared to 2012.

There are two types of certification. The first is for collection of textiles aimed for re-use only, and the second for collection of textiles for re-use and textile waste for recycling. By accepting textile waste, the collector also handles textiles that are only suitable for recycling into products such as rags and insulation. The two types of certifications come with different requirements for re-use and recycling. Certification of collection of textiles for re-use and textile waste for recycling guarantees at least 50% of the collected textiles are re-used, and 90% are either re-used or recycled. The certification for collection of textiles for re-use only guarantees that at least 80% of the collected textiles are re-used, and that 90% are re-used or recycled. The two certification types are distinguished by different logos:

Collectors fulfilling criteria for social benefit, charities, have logos marked with "Social benefit".

Collector X conforms to "The Nordic textile re-use and recycling commitment" – a certification system for textile collectors in the Nordic countries. Major decisions regarding the commitment are taken by a certification committee comprised of representatives from [list of organisations represented in the committee].

### 5.3.1 Supporter logo

Municipalities are recommended to be allowed to use the supporter logo, for example on their websites as a way of showing that the municipality supports “The Nordic textile and recycling commitment”. The use of the support logo is accompanied by a fee.

Businesses are recommended to not be allowed to use the supporter logo as there is a potential risk of diluting the credibility of the certification system. However, the supporter logo may be used in second-hand shops that have exclusive contracts with a certified collector. The supporter logo is presented below.

Figure 10: Supporter logotype



### 5.4 Website

The operator shall maintain a website for the certification system. The website should be in English, as well as in several Nordic languages, and should include:

- General information about the system, labels and contact details for certification.
- Information about the certification committee and its members.
- The current/latest criteria and checklist documents.
- Third party auditor requirements, and previously used auditors.
- List of certified organisations and the duration of their certificates.
- Statistic summary of the collection, re-use and recycling achievements of the certified members.

The CSO is responsible for keeping the website up-to-date with correct information.

The current domain website cost is around EUR 15 per year, and around EUR 25 per year for the web space (15 GB). This web space is likely to be sufficient. It is estimated that maintenance of the website will require approximately 40–80 hours per year.

## 5.5 Certification costs and fees

The certification system shall be non-profit and fees shall be adjusted to compensate for the operational costs of the system only. It is desirable to have fees that are as low as possible, in order to enable organisations to join the certification scheme. Charities are often financed by gifts and voluntary workers. The fee system must be easy, transparent and cost effective to manage. Palm *et al.* (2015) suggested that the costs and fees of the system should be divided into annual fees for members and supporting organisations, certification cost and verification cost. However, we suggest that a registration fee is used instead of a certification cost; meaning that the applicant pays when registering their intention to become certified, rather than when certification is completed.

### 5.5.1 Annual fee

It is proposed that the annual fee is differentiated depending on the size of the certified operation, i.e. on the annual amount of original textiles collected. The fee covers development, communication and general operation of the system, and the size of the fee will depend on how many certified partners there are in the system to share the cost. The annual fee is set by the certification system operator together with the certification committee. Failure to pay the annual fee will lead to withdrawal of certification. When a collector joins the certification system a share of the annual fee for that calendar year should be invoiced; in Q1: 100%, Q2: 75%, Q3: 50%, Q4: 25%. After the first partial calendar year, annual fees should normally be invoiced at the beginning of the year.

For collectors, the annual fee could be differentiated as follows (suggestion by Palm *et al.* 2015):

**Table 4: Suggested annual fees for certified organisations based on the annual amount of collected original textiles**

Collected amounts	Corresponding size	Possible annual fee
<=100 tonnes	Small	EUR 100 + VAT
100>=1,000 tonnes	Medium	EUR 500 + VAT
1,000>=10,000 tonnes	Large	EUR 1,000 + VAT
>10,000 tonnes	X-Large	EUR 2,500 + VAT

Municipalities supporting the certification system that have contracted/given permission to certified collectors in the municipality may use the supporter logo, for example on their websites. For municipalities supporting the certification system the annual fee is differentiated depending on the number of inhabitants:

**Table 5: Suggested annual fees to be charged municipalities supporting the certification system**

No. of inhabitants	Corresponding size	possible annual fee
<10,000	Small	EUR 100 + VAT
10,000–250,000	Medium	EUR 500 + VAT
>250,000	Large	EUR 1,000 + VAT

The project group proposes that the maximum fee that could be charged must not exceed double the amounts proposed above. If the maximum fee levels cannot cover the costs of the system (i.e. due to few certified organisations), the funding gap must be covered by NWG. A potential fee for second-hand shops having exclusive contracts with certified collectors should be considered by the CSO.

### **5.5.2 Registration cost**

A registration fee is paid to the certification system when applying for registration, covering administration of the certification process. This includes communication with the applicant, revision of the third party audit report and administration related to issuing the certificate if/when it is granted. The certification fee is the same for all applicants and is set by the certification system operator together with the certification committee. A suggested range for the fee could be EUR 400–600 + VAT.

After a trial period the proposed annual fees and fees for registration should be adjusted to match both the needs for further development of the system, administration and communication of the system. Fees paid to auditors for certification audits are regulated by individual agreements between the auditor and the organisation applying for certification. The certification system should always strive to keep fees down to avoid the risk of excluding collectors due to financial purposes.

### **5.5.3 Auditor costs**

Compliance with criteria in the certification system is verified by third-party auditors. The certification system operator together with the certification committee sets the minimum requirements that auditors must meet, but the collector applying for certification decides which of the qualified auditors to use. The collector enters into agreement with the auditor; the certification system operator is not involved in this relationship.

In the trial audit, the cost ranged from around EUR 2,000–4,000 per collector. As the trial phase was an iterative and continuous process, it is likely that the certification cost will be lower when the system is operational. A re-audit with the same auditor when the certificate has expired is also likely to be less time-consuming, and therefore more cost-efficient, for both the collector and the auditor.

#### 5.5.4 Costs for the certification system operation

The following costs need to be covered by the system:

**Table 6: Costs to be covered by the certification system operator**

Task	Approximate cost	Comment
Secretariat function (for communication with stakeholders, approval of auditors etc.)	EUR 35,000/year	20% for one employee à EUR 100/h (excluding social costs)
Update and revision of criteria		The documents should be reviewed on a regular basis (minimum every five years). The revision should be done in cooperation with the certification committee
Arrangement of certification committee meetings	Included in secretariat function	
Administration of fees and certificates	Included in secretariat function	
Creation of new logo	EUR 900	logotypcenter.se Optional initial investment
Register trademark for logo at PRV	Approx. EUR 200 (one time)	<a href="https://www.prv.se/sv/varumärke/avgifter-och-betalning/">https://www.prv.se/sv/varumärke/avgifter-och-betalning/</a>
Website costs	Approx. EUR 50–100 /year for domain and web space. Updates of the website are included in the secretariat function	Updating the website could potentially be part of secretariat function
SUM	EUR 35,000–45,000 year	Plus optional initial investments

The income to the certification system consists of registration fees and annual fees from certified collectors and from municipalities supporting the certification system. The size of this income, to cover the certification system operation, depends on the number of certified actors. The number of certified actors depends mostly on three factors: the willingness to apply for certification, the difficulty for the applicants to fulfill the criteria, and the number of collectors in the Nordic countries. Annual fees are not charged until the certificate is issued, whereas the registration fee is charged when registering.

The number of collectors in the Nordic countries is challenging to estimate. According to Palm *et al.* (2014) there are four organisations (charities) collecting around or over 5,000 tonnes of textiles annually in Denmark, three in Finland, two in Norway and three in Sweden. In addition to the largest actors there are a high number of smaller initiatives and charities as well as commercial actors collecting textiles in stores making the estimation of annual income highly uncertain. Assuming that the largest charities in the Nordic countries would like to apply for certification, and eventually get the certificate, would mean an income from annual fees of around EUR 12,000 to 14,000 per year plus registration costs every three years. This means that all expenses in excess of this income would need to be covered from external sources such as NWG.

Apart from operating the certification system there will also be some initial cost to set up the certification system for the CSO. The size of this cost will be highly dependent on the CSO chosen, and the magnitude of changes the CSO would like to make in order to adapt the system operation to its other businesses. A very rough approximation is that it would require DKK 80,000 for an actor familiar with “The Nordic textile re-use and recycling commitment” certification equivalent to two weeks of full time work. The time should be spent on information and communication that the certification system is operational and that collectors are able to apply for certification, planning how the certification system should be run on a daily basis, invite members to the certification committee, and update the website etc. Initial funding should also take into consideration that unforeseen activities can occur when the certification system is launched.

## 5.6 Certification committee

Two existing organisations were looked at when considering how a certification committee for the certification system should be composed: the International EPD system (Environmental Product Declarations) and Revaq (certification of sludge for agricultural purposes). The aim was to get a picture of how other organisations solve the formal administration and control of their certification processes, and get inspiration to form the certification committee in “The Nordic textile re-use and recycling commitment”.

### 5.6.1 *The International EPD system*

An EPD (Environmental Product Declaration) “is a verified and registered document that communicates transparent and comparable information about the life-cycle environmental impact of products” (EPD System, 2016). An example of a system operator for the EPD System is the Swedish system operator for “The International EPD system”. This particular EPD system was founded in Sweden and is a global programme for type III environmental declarations operating in accordance with ISO 14025 and EN 15804. Other countries have their own systems (e.g. Norway, Germany and others, Ecoplatform 2016), but the systems are harmonised. The following text is about the system operated in Sweden, but is similar to the other schemes mentioned. An EPD can be created for all kinds of products and services and are accessible for download at no cost from the EPD website. EPDs are developed by organisations, such as companies or trade associations, and the EPDs are verified by either accredited certification bodies or recognised individual verifiers/auditors.

EPD International AB, a limited company registered in Sweden, acts as the Programme Operator and has the overall responsibility for the International EPD

System (relevant for Sweden, Italy, Turkey, Australia, Taiwan and Latin America).<sup>4</sup> Mutual recognition and harmonization work has also been performed with IBU (German EPD system) and EPD-Norway (Norwegian EPD system). The EPD systems are built up similarly. EPD International has a secretariat function managing most of the daily work, including updates to the General Program Instructions (GPI) for the system and communication with stakeholders. There is also a technical committee that assists in technical issues, such as the GPI update. The technical committee also approves the third party verifiers, based on the criteria set out for verifiers in the GPI. Potential verifiers are not suggested or chosen by the system, but apply for approval themselves.

The Technical Committee functions as a support to the system operator and consists of a group of at least five LCA/EPD experts. The Technical Committee assists the system operator and the secretariat in technical issues as well as with updating the General Programme Instructions etc. The system operator appoints members and manages membership of the committee based on applications from LCA/EPD experts, needs expressed by the committee in terms of skills or capability, and by nominations to the committee by member organisations (EPD System, 2016).

#### **5.6.2 Revaq**

Revaq is a certification system with the aim of decreasing the flow of hazardous substances to waste water treatment plants and to create a sustainable return of nutrients present in waste water sludge. The certification system is open to waste water treatment plants in Sweden, and currently 43 waste water treatment plants are certified according to Revaq.

The organisation of Revaq consists of a steering group, a rule committee and a secretariat. The CEO selects the steering group, which is in charge of updating formal documents such as rules etc. To do this, the steering group selects a rule committee (4–7 people) and a scientific council. The rule committee continuously develops the rules of the system and handles complaints to the system. The scientific council consists of external and independent researchers and acts as a knowledge resource for the system. There is also a project manager for Revaq, who is in charge of the secretariat conducting the daily work of the system. More details about the different instances of Revaq, their current composition and their responsibilities can be found on their website (Revaq, 2016).

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<sup>4</sup> Countries: Mexico and Chile.

### 5.6.3 *Certification committee in "The Nordic textile re-use and recycling commitment"*

The project team suggest that the certification committee in "The Nordic textile re-use and recycling commitment" should function as support for the CSO and assist in, for example, updating and revising criteria and checklists, and in approving auditors. This should normally be done every three years (every five years as a minimum). They also act as a stakeholder forum where issues and feedback regarding the system can be discussed. The number of participants should be 6–9, and should be selected by NAG on a yearly basis. The chair of the committee is chosen by voting at the first annual meeting. It is suggested that the following stakeholders should be represented in the committee:

- Collectors (2–3, rotating between certified system members).
- Textile producers (1–2, rotating between interested parties).
- Textile sorters/recyclers (1–2, rotating).
- National authorities (EPAs) (1, rotating).
- NAG representatives (1, rotating between countries).
- Researchers (1, rotating).
- National waste organisations representing local authorities (2, rotating).

The committee should meet at least twice per year, where one meeting every third year should be dedicated to updating the system documents together with representatives of the CSO. The preparation of draft revised documents should be conducted by a working group of at least 4 committee members. The updated drafts should be circulated for feedback among collectors, sorters, recyclers, municipalities and authorities for 60 days and then updated for a second time according to the feedback received. The final drafts should be circulated to committee members and the CSO at least two weeks in advance of the meeting where the update is to be officially decided upon. The whole update process will therefore take approximately six months. Additional meetings can be held if deemed necessary by a majority of the committee members. The chair of the committee is responsible for invitations to meetings.



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# Appendix 1: Reference group

The reference group consisted of the following members.

**Table 1: Names of members in the reference group**

Names	Organisation
Tina Winberg	The city of Copenhagen
Jonas Eder Hansen	Danish Fashion Institute
Kenneth Skov-Andersen	Frelsens Haer
Minja Huopalainen	UFF Finland
Sari Nikkola	Kontti/Finish Red Cross
Helena Dahlbo	Finnish Environment Institute, SYKE
Timo Hämäläinen	The Finnish Solid Waste Association
Ellen Halaas	The city of Oslo
Benedicte Brinchmann Eie	H&M Norway
Frode Nilsen	Fretex
Kåre Edvardsen	The city of Halden
Emma Enebø	Myrorra
Susanna Winblad/Ingela Morfeldt	The city of Malmö/VA Syd
Klaus Rosinski/Anna Jiffer/Levi Möller	Returtex/HumanBridge
Sara Winroth	Lindex Sweden
Elisabeth Dahlin/Magnus Lundén	Swedish Red Cross
Jørn Jensen	Bureau Veritas
Kaj Pihl	UFF-Humana Denmark
Steen Trasborg	Trasborg



# Appendix 2: Self-assessment checklist for collection of textiles aimed for re-use only

## Background

This checklist is designed to allow textile collectors to perform self-assessment within the certification system "The Nordic Textile Re-use and Recycling Commitment" (hereafter "The Commitment").

There are two types of certification available:

- One for collection of textiles aimed for re-use only.
- One for collection of textiles for re-use and textile waste (the legally correct term is "collection of textiles for preparation for re-use and textile waste").

Accordingly, there are two sets of criteria:

- One describing criteria to be fulfilled by collectors seeking certification for collection of textiles for re-use only.
- One describing criteria to be fulfilled by collectors seeking certification for collection of textiles for re-use and textile waste.

This document is a checklist to be used for collectors seeking for certification to collect *textiles for re-use only*. The collector seeking for certification should complete the following template in full and provide documentation to support the information provided.

The criteria require that the performance of all relevant downstream actors shall be documented and available for the audit.

Once the checklist is completed by the collector, the auditor will work through the checklist, verifying the information and documentation provided by the collector. The auditor will submit the verified checklist to the System Operator as part of the certification process.<sup>5</sup>

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<sup>5</sup>The interim System Operator is IVL Svenska Miljöinstitutet. Contact person: Anna Fråne, anna.frane@ivl.se, +4610788 67 41.

## Conditions for certification

Full compliance of all criteria is needed in order to become certified. Minor deviations identified by the auditor shall be corrected within three months from the audit date, and will thus be subject for a limited re-audit. If the deviations are not corrected within the set time frame, another full audit must be completed.

*Please note:* while the criteria seek to accommodate all relevant national legislation in the nordic countries, where the provisions or demands of national legislation deviates from the criteria, the national legislation takes precedence over the criteria, with no adverse implications for certification.

## Document guide

This document is divided into three parts:

1. Quantitative description of textile flows through your value chain.
2. Documentation requirements for verifying compliance with the criteria.
3. Statement of Compliance and signatures of representatives from the Collector and the Auditor.

## Terms

The *Auditor* is an organisation authorised by the System Operator to audit and verify the information provided by the collector prior to certification.

A *Collector* is defined as any actor that receives used textiles.

A *Collection point* is any location where used textiles are collected, for example containers and in-store collection.

*Original textile* refers to the total amount of textiles aimed for re-use and textile waste collected at collection points. Original textile is unsorted, and could thus contain items other than textiles.

*Re-use* refers to any operation by which products or components are used again for the same purpose for which they were conceived.

*Recycling* refers to any recovery operation by which non-reusable materials are reprocessed into products, materials or substances whether for the original or other purposes.

*Recovery* in a legal sense covers "preparing for re-use", "recycling" and "incineration with energy recovery". In the context of the Commitment, recovery refers to energy recovery through incineration or co-incineration, where the principal use of the waste is as a fuel.

*Textile* refers to the material textile. If shoes, bags and accessories are collected together with textiles at collection points these quantities might be included but should be made clear in the quantitative information.

*Textile waste* refers to collected textiles that are sent to recycling, energy recovery or disposal.

The *Certification System Operator* is the body that maintains The Commitment and issues certification.

## Checklist

The documentation requested in Part 1 and 2 should directly illustrate compliance with the criteria.

*Collector (company name):*

*Representative for collector (name and title):*

*Auditor (company name):*

*Auditor (name and title):*

*Audit Date:*

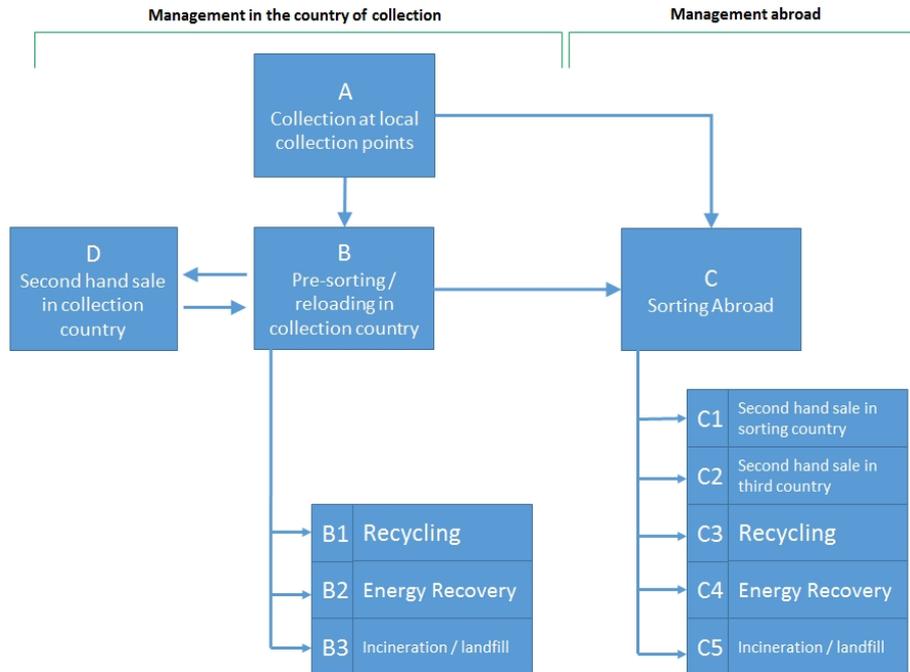
*Date for the previous audit (if applicable):*

*Previous Audit reference number (if applicable):*

## Part 1: Quantitative information on textile flows

Figure 1: Quantitative information on textile flows

### FLOW CHART



### Key

- A = collected amounts of original textile and textiles. Please specify the amount collected in-store, in containers, by kerbside collection or other collection options.
- B = the amount of original textile and textiles sorted/reloaded.
  - B1 = the amount of textiles sent to recycling.
  - B2 = the amount of textiles sent to energy recovery.
  - B3 = the amount of textiles sent to incineration (without energy recovery) or landfill.
- C = the amount of original textile and textiles sent to sorting abroad.
  - C1 = the amount of textiles to second-hand sale in the sorting country.
  - C2 = the amount of textiles sent to second-hand sale in third country.
  - C3 = the amount of textiles sent to recycling.
  - C4 = the amount of textiles sent to energy recovery.
  - C5 = the amount of textiles sent to incineration (without energy recovery) or landfill.
- D = the amount of textiles sent to second-hand sale in the collection country.

Please fill in the Table with annual data (previous year). Please be prepared to provide documentation for your answers. The auditor will require this.

Sorting results according to C<sub>1</sub>–C<sub>5</sub> can be given to a collector either as specific to their textiles (if available) or as the average fractions of the sorting not specified for any specific supplier.

**Table 1: Annual data on textile flows to be filled in by the collector**

Position in flow chart	Description	Quantity (tonnes/year)	
		Original textiles (tonnes/year)	Textiles (tonnes/year)
A	Collected amounts of original textiles (please distinguish between in-store, container, kerb-side collection and other collection options)		
	In-store collection		
	Container collection		
	Kerbside collection		
	Other collection options		
B	(Pre)-sorted / Re-loaded amounts		
	...of which is sent to:		
B <sub>1</sub>	Recycling		
B <sub>2</sub> <sup>6</sup>	Energy recovery		
B <sub>3</sub> <sup>7</sup>	Incineration without energy recovery or landfill		
C	Amounts sent to sorting abroad		
	...of which is sent to:		
C <sub>1</sub>	Second-hand sale in the sorting country		
C <sub>2</sub>	Second-hand sale in a third country		
C <sub>3</sub>	Recycling		
C <sub>4</sub> <sup>8</sup>	Energy recovery		
C <sub>5</sub> <sup>9</sup>	Incineration without energy recovery or landfill		
D	Second-hand sale in the collection country		
<b>To be calculated</b>			
$(C_1+C_2+D)/A_{\text{textile}}$	Re-use rate		%
$(B_1+C_3)/A_{\text{textile}}$	Recycling rate		%
$(C_1+C_2+D+B_1+C_3)/A_{\text{textile}}$	Re-use and recycling rate		%

<sup>6</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

<sup>7</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

<sup>8</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

<sup>9</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

## Part 2: Documentation of compliance with criteria

In the following Chapters the criteria are divided as follows:

1. Information, transparency and reporting.
2. Collection.
3. Sorting (both in the collection country and abroad).
4. Second-hand sale (Re-use).
5. Environmental performance.
6. Social benefit.

Equal rules apply for export of textiles as well as for domestic sorting, re-use (sales) and recycling. Other existing third party certification ensuring compliance with the criteria of the certification may be used as documentation for international actors.

### 1. Information, transparency and reporting

Table 2: Information, transparency and reporting, Criteria

Criteria	Check if fulfilled
Criterion 1.1: Traceability of textiles shall be possible from collection to the input of C <sub>1</sub> –C <sub>5</sub> (see flow chart), i.e. the collector shall be able to document the quantities of sorted textiles sent to second-hand sale in the sorting country, second-hand sale in a third country, recycling, energy recovery, and incineration without energy recovery or to landfill.	(X)
Criterion 1.2: The collector is responsible for gathering the required information. This includes information from third party organisations required to fulfil the criteria.	(X)
Criterion 1.3: Documentation shall include receipts of all transfer of textiles to and from collectors and sorters, resellers or recyclers. Sorters, resellers and recyclers shall be able to verify the fate of received textiles (overall or specific to signatory) either directly with receipts or via third party certification.	(X)
Criterion 1.4: All collected textiles shall be documented with weight and source of origin. <sup>10</sup>	(X)

The documentation outlined below should be provided to illustrate compliance with the Criteria.

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<sup>10</sup> The minimum requirement is to weigh collected textiles at reloading stations and in shops.

**Table 3: Information, transparency and reporting, Required documentation**

Required documentation	Incl.	N/A	Comment/Reference
1.1.1 Documented overview of the textile value chain, from collection to the outputs from sorting. This is to clarify to the auditor how collected textiles are managed within your organisation.	✓		
1.1.2 Documentation of the type (container, kerbside, in-store collection, other), location and number of collection points. As a minimum, location and type of collection point shall be specified on the municipal level.	✓		
1.1.3 Documentation of the number of second-hand shops your organisation operates (if any).	✓		
1.1.4 Documentation of the transportation and reloading of textiles from collection to sorting. <sup>11</sup>	✓		
1.1.5 Documented description of the routines for weighing the collected textiles. The description/routine shall include information about where in the value chain the textiles are weighed. The minimum requirement is to weigh the collected textiles at reloading stations and in shops. The collector shall be able to present documented weights.	✓		
1.1.6 Documented routines for ensuring that textiles remain dry along the value chain.	✓		
1.1.7 Documented routines for minimising theft of textiles from the value chain.	✓		

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<sup>11</sup> A main / average route description is appropriate if you have a variety of collection and transport routes.

## 2. Collection

**Table 4: Collection, Criterion 2.1**

Criterion 2.1 It should be made clear to the person delivering/donating used textiles to collection actors where the textiles are going; that the purpose of collection is to re-use the textiles; which organisation is performing the collection and; how to find more information about the certification system		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment /reference
2.1.1 Documentation of routines for communicating the fate of the received textiles, the purpose of the collection and collector contact information. If the collector is already certified, documentation about the certification system shall be communicated. This will be verified by sample checks at collection points.	✓		

**Table 5: Collection, Criterion 2.2**

Criterion 2.2 Collectors shall not knowingly accept textiles that originate from illegal collection or textiles with uncertain origin		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
2.2.1 Documentation of the measures taken to minimize the possibility of receiving textiles from illegal collection.	✓		

**Table 6: Collection, Criterion 2.3**

Criterion 2.3 Information on which products are accepted shall be clearly stated to the consumer		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
2.3.1 Documentation of how consumers are informed about the products accepted (textiles, shoes, bags, accessories etc.). The same requirement applies to all collection types (container, kerbside, in-store collection, other). The information shall be provided through stickers or similar that shall be placed on containers or in close connection to the in-store collection points.	✓		

**Table 7: Kerbside Collection, Criterion 2.4**

Criterion 2.4 If material is not collected, due to not being textile, being soiled or otherwise contaminated, written information shall be given to the consumer			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.4.1 Documentation of routines for providing written information to consumers about why the material is not collected.	✓		
2.4.2 Documentation of the frequency of uncollected material.	✓		

**Table 8: Container Collection, Criterion 2.5**

Criterion 2.5 Containers for textiles aimed for re-use shall only be installed once the relevant documented authorisation has been obtained from the local authority and/or land owner			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.5.1 List of documented permissions from municipalities and other land owners. The list should include which municipalities have given permission for your organisation to collect textiles in their region, any municipal waste authorities that your organisation has an agreement with, as well as contact details (including name, telephone number and e-mail address) for each municipality.	✓		

**Table 9: Container Collection, Criterion 2.6**

Criterion 2.6 Container sites shall be well-maintained and the immediate area around the container shall be kept free from litter			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.6.1 Documentation of routines and follow-up for how container sites are kept well-maintained and free from waste and dispersed textiles.	✓		

**Table 10: Container Collection, Criterion 2.7**

Criterion 2.7 The collector shall ensure that containers are emptied frequently and that they are clearly marked with contact details in the event of problems (see Table 12):			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.7.1 Documentation of the emptying routines and follow-up for containers.	✓		
2.7.2 Documentation about the presence of contact details on the collection containers. This will be verified by sample checks.	✓		

### 3. Sorting (both in the collection country (B) and abroad (C))

**Table 11: Sorting, Criterion 3.1**

Criterion 3.1: Collectors shall require documented assurance from their contracted sorters that the sorters do not accept illegally collected textiles		X	
Required documentation	Incl.	N/A	Comment/reference
3.1.1 Documentation of assurance from contracted sorters that they do not accept illegally collected textiles.	✓		

**Table 12: Sorting, Criteria 3.2–3.5**

Criteria 3.2–3.5 Sorters shall report the annual amount and the share of the sorted textiles aimed for re-use that are sent to:		X	
Required documentation	Incl.	N/A	Comments/reference
<ul style="list-style-type: none"> <li>• Re-use</li> <li>• Recycling</li> <li>• Incineration with energy recovery</li> <li>• Incineration without energy recovery or landfill</li> </ul> Sorting results according to C <sub>3.2–3.5</sub> can be given to a collector either as specific to their textiles (if available) or as the average fractions of the sorting not specified for any specific supplier			
3.2.1 Documentation of the destination and the amounts of textiles leaving the sorting plant(s). This links to the re-use rate in Part 1 of this checklist.	✓		

**Table 13: Sorting Criterion, 3.6**

Criterion 3.6 Collected textiles aimed for re-use shall only be sold to companies with the requested competence regarding handling of these material flows		X	
Required documentation	Incl.	N/A	Comment/reference
3.6.1 Documentation on the contracted sorters competence in sorting textiles.	✓		

#### 4. Second-hand sale (Re-use)

**Table 14: Second-hand sale, Criterion 4.1**

Criterion 4.1		X
Sales of textiles by a certified actor may only be associated with the certification system if all re-used textiles are included in the certification system. Sales of certified textiles together with new textiles are allowed if it is clear that new textiles are not collected within the certification system		(check if fulfilled)
Required documentation	Incl.	N/A Comment/reference
4.1.1 Documentation proving that all sales of textiles are included in the certification system. An alternative is to show how it is made clear to consumers that new textiles are not part of the certification system.	✓	

**Table 15: Second-hand sale, Criterion 4.2**

Criterion 4.2		X
The percentage of sold (or donated) textiles aimed for re-use as a share of received used textiles together with the fate of unsold textiles shall be reported. Only the sold or donated textiles may be included as re-used		(check if fulfilled)
Required documentation	Incl.	N/A Comment/reference
4.2.1 Documentation of the percentage of sold (or donated) used textiles as a share of collected used textiles. <sup>12, 13</sup> This links to the re-use rate in Part 1 of this checklist.	✓	
4.2.2 Documentation of the percentage of collected used textiles that are sent to re-use. This links to the re-use rate in Part 1 of this checklist.	✓	

<sup>12</sup> Weight % required.

<sup>13</sup> Textiles going on to a new life, rather than final waste treatment, like incineration or landfill.

## 5. Environmental performance

Collected textiles shall be treated according to the waste hierarchy stated in the Waste Framework Directive (2008/98/EC).

**Table 16: Environmental performance, Criterion 5.1**

Criterion 5.1 The collector shall present action plans for increasing the amounts of textiles that are re-used		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
5.1.1 Documented action plan showing how the collector plans to increase the amount of textiles that are re-used.	✓		

**Table 17: Environmental performance, Criterion 5.2**

Criterion 5.2 At least 80% of collected textiles shall be re-used (annually) either by charity re-use, domestic sales or by exports to an organization guaranteeing the level of re-use		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
5.2.1 Documentation that the collector meets the minimum re-use target described in Criterion 6.2. Please show the basis for the calculation. Note that the re-use level shall be calculated for textiles only (not original textiles). <sup>14</sup> Please state whether shoes and accessories are included in "textiles", or not. This links to the re-use rate in Part 1 of this checklist.	✓		

**Table 18: Environmental performance, Criterion 5.3**

Criterion 5.3 At least 90% of collected textiles shall either be re-used or used as input for recycling (annually)		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
5.3.1 Documentation that the collector meets the minimum re-use/input to recycling target described in Criterion 6.3. Please show the basis for the calculation. Note that the re-use/input for recycling level shall be calculated for textiles only (not original textiles). Shoes and accessories may be included, but shall be informed of. This links to the re-use rate in Part 1 of this checklist.	✓		

<sup>14</sup> As shown in Criterion 6.5, shoes and accessories can be included in textiles, but it should be clearly stated whether they are included, or not.

**Table 19: Environmental performance, Criterion 5.4**

Criterion 5.4 Signatories comply with the criteria for environmental performance if they only re-use textiles and send the remaining textiles to another signatory that fulfils criteria C6.2 and C6.3		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
5.4.1 If your organisation sends textiles aimed for re-use to another signatory that fulfils criteria C6.2 and C6.3, please provide documentation showing that the organisation fulfils these criteria.	✓		

**Table 20: Environmental performance, Criterion 5.5**

Criterion 5.5 Collected items that are not textiles should not be included in the calculation regardless of being waste or other products with the exception of shoes and accessories. If shoes and accessories are included, this should be clearly stated		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
5.5.1 Documentation for the presence or absence of shoes and accessories from the collected textiles.	✓		

## 6. Social benefit

**Table 21: Social benefit, Criterion 6.1**

<p><b>Criterion 6.1</b> A socially beneficial actor shall fulfill at least six of the following criteria</p> <ul style="list-style-type: none"> <li>• Mainly reinvest profits in own or similar enterprises.</li> <li>• Be non-profit.</li> <li>• Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed.</li> <li>• Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership).</li> <li>• Be structurally independent from the public sector.</li> <li>• Be certified as having charity status.</li> <li>• Mainly be operated by volunteers.</li> <li>• Have clear and transparent economic accounting.</li> <li>• Protect human equity and equal rights.</li> <li>• Have as main purpose to improve living conditions for humans living under particularly difficult conditions.</li> </ul> <p>Clarifications of the social benefit criteria are available in Appendix 2.1.</p>		<p>X (check if fulfilled)</p>		
<b>Required documentation</b>	<b>Incl.</b>	<b>Number</b>	<b>N/A</b>	<b>Comment/reference</b>
6.1.1 Documentation supporting your organisation's compliance with at least six of the above criteria.	✓			

Please note that if significant changes are made during the certification period a supplementary certification shall be performed.<sup>15</sup> If there is any uncertainty to whether a change constitutes a significant change, the certification system operator must be notified.

I hereby confirm that I [organisation representative] have filled out this self-assessment checklist to the best of my ability and knowledge, and that the organisation-specific data supplied by [organisation name] (the Collector) is factually correct.

*Date:*

*Collector (signature):*

I hereby confirm as a third party, independent auditor that [organisation name] complies with the requirements of "The Nordic Textile Re-use and Recycling Commitment" for Collectors. The organisation-specific data has been examined as regards plausibility and consistency; the Collector is responsible for its actual integrity.

*Date:*

*Auditor (signature):*

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<sup>15</sup> Significant changes include changes in customers/partners. If a contract with an existing customer/partner is renewed without changes, this does not need to be reported.

## Appendix 2.1: Clarifications of social benefit criteria

*Social Criteria 1:* “Reinvest profits in own enterprise, similar enterprises or a charity” means that any profits from used textiles should be used for reinvestment in the organizations management of used textiles or given to an organization (which can be an owner) also meeting at least six of the criteria listed or meeting criteria number 6.

*Social Criteria 2:* “Be non-profit” means that no profits are given to any kind of owner, shareholder or other actor. Profits are used either to further develop the organization’s internal management of used textiles or for purposes included in any of the remaining criteria.

*Social Criteria 3:* “Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed” is self-explanatory. A substantial part of the employees should fit into this category.

*Social Criteria 4:* “Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership)” means that most or all of the co-workers have a say in how the organization manage the used textiles and run their organization. (It is a mean for empowerment connecting to criteria 3)

*Social Criteria 5:* “Be structurally independent from the public sector” means that the organization should not be part of the public sector. It does not mean that it should not cooperate or receive funds or grants from the public sector for purposes included in any of the remaining criteria.

*Social Criteria 6:* “Be certified as having charity status” can differ between countries. In Sweden the go-account given by Svensk insamlingskontroll is a valid certification. In Norway an approval by Innsamlingskontrollen is a valid certification. In Denmark an approval by ISOBRO is a valid certification. For other countries, charity status can be decided by the system operator together with the certification committee.

*Social Criteria 7:* “Mainly be operated by volunteers” means that a majority of persons involved in the management of used textiles shall be without reimbursement for their services.

*Social Criteria 8:* “Have clear and transparent economic accounting” means that documentation must be clear enough to make it possible to verify that the other criteria is fulfilled. If criterion 6 is fulfilled either by Svensk Insamlingskontroll or Innsamlingskontrollen, this criterion is automatically met.

*Social Criteria 9:* “Have as main purpose to protect human equity and equal rights” means to have as main purpose to strengthen and protect human equity and equal rights by different means, be it economic, lobbying, education or other.

*Social Criteria 10:* “Have as main purpose to improve living conditions for humans living under particularly difficult conditions” means to improve living conditions for humans living under particularly difficult conditions by different means, be it economic, work training, aid, education or other.

### *Uncertainty of fulfilment of criteria*

The definitions of socially beneficial organizations are not always clear cut as extensively discussed in the reports used as basis for the chosen criteria. If there are uncertainties to whether an organization meets the criteria for social benefit the auditor may present the uncertainty to the system operator. The system operator then consults the certification committee which will evaluate and propose a recommendation. The system operator makes the final decision.



# Appendix 3: Self-assessment checklist for collection of textiles aimed for re-use and textile waste

## Background

This checklist is designed to allow textile collectors to perform self-assessment within the certification system "The Nordic Textile Re-use and Recycling Commitment" (hereafter "The Commitment").

There are two types of certification available:

- One for collection of textiles aimed for re-use only.
- One for collection of textiles for re-use and textile waste (the legally correct term is "collection of textiles for preparation for re-use and textile waste").

Accordingly, there are two sets of criteria:

- One describing criteria to be fulfilled by collectors seeking certification for collection of textiles for re-use only.
- One describing criteria to be fulfilled by collectors seeking certification for collection of textiles for re-use and textile waste.

This document is a checklist to be used for collectors seeking for certification to collect both textiles aimed for re-use and textile waste. The collector seeking certification should complete the following template in full and provide documentation to support the information provided.

The criteria require that the performance of all relevant downstream actors shall be documented and available for the audit.

Once the checklist is completed by the collector, the auditor will work through the checklist, verifying the information and documentation provided by the collector. The auditor will submit the verified checklist to the System Operator as part of the certification process.<sup>16</sup>

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<sup>16</sup>The interim System Operator is IVL Svenska Miljöinstitutet. Contact person: Anna Fråne, anna.frane@ivl.se, +4610788 67 41

## Conditions for certification

Full compliance of all criteria is required in order to become certified. Minor deviations identified by the auditor shall be corrected within three months from the audit date, and will thus be subject for a limited re-audit. If the deviations are not corrected within the set time frame, another full audit must be completed.

*Please note:* while the criteria seeks to accommodate all relevant national legislation in the nordic countries, where the provisions or demands of national legislation deviates from the criteria, the national legislation takes precedence over the criteria, with no adverse implications for certification.

## Document guide

This document is divided into three parts:

1. Quantitative description of textile flows through your value chain.
2. Documentation requirements for verifying compliance with the criteria.
3. Statement of Compliance and signatures of representatives from the Collector and the Auditor.

## Terms

The *Auditor* is an organisation authorised by the System Operator to audit and verify the information provided by the collector prior to certification.

A *Collector* is defined as any actor that receives used textiles.

A *Collection point* is any location where used textiles are collected, for example containers and in-store collection.

*Original textile* refers to the total amount of textiles aimed for re-use and textile waste collected at collection points. Original textile is unsorted, and could thus contain items other than textiles.

*Re-use* refers to any operation by which products or components are used again for the same purpose for which they were conceived.

*Recycling* refers to any recovery operation by which non-reusable materials are reprocessed into products, materials or substances whether for the original or other purposes.

*Recovery* in a legal sense covers "preparing for re-use", "recycling" and "incineration with energy recovery". In the context of the Commitment, recovery refers to energy recovery through incineration or co-incineration, where the principal use of the waste is as a fuel. *Textile* refers to the material textile. If shoes, bags and accessories are collected together with textiles at collection points these quantities might be included but should be made clear in the quantitative information.

*Textile waste* refers to collected textiles that are sent to recycling, energy recovery or disposal.

The *Certification System Operator* is the body that maintains The Commitment and issues certification.

## Checklist

The documentation requested in Part 1 and 2 should directly illustrate compliance with the criteria.

*Collector (company name):*

*Representative for collector (name and title):*

*Auditor (company name):*

*Auditor (name and title):*

*Audit Date:*

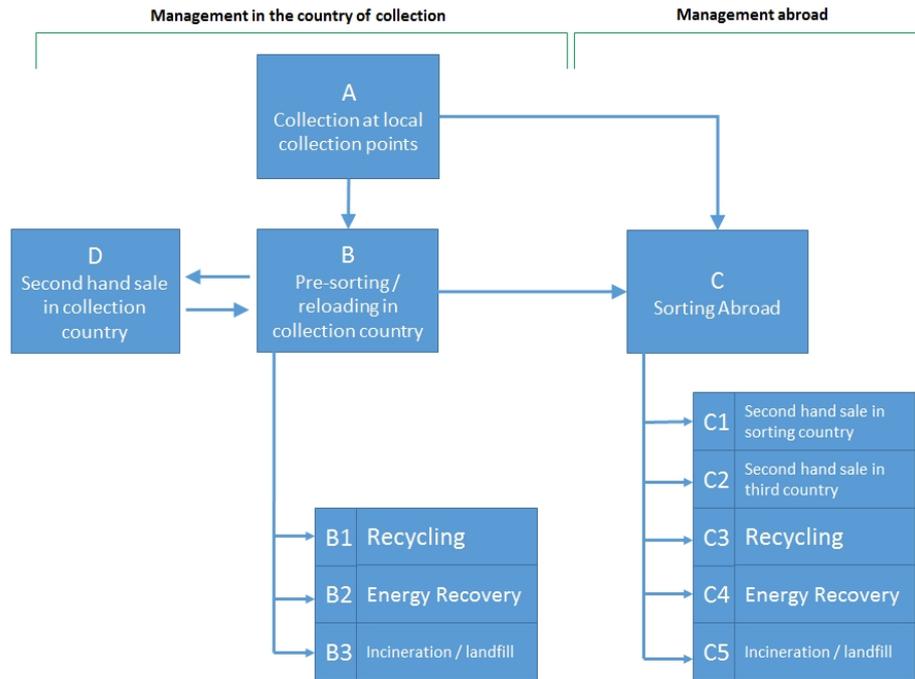
*Date for the previous audit (if applicable):*

*Previous Audit reference number (if applicable):*

## Part 1: Quantitative information on textile flows

Figure 1: Quantitative information on textile flows

### FLOW CHART



### Key

- A = collected amounts of original textile and textiles. Please specify the amount collected in-store, in containers, by kerbside collection or other collection options.
- B = the amount of original textile and textiles sorted/reloaded.
  - B1 = the amount of textiles sent to recycling.
  - B2 = the amount of textiles sent to energy recovery.
  - B3 = the amount of textiles sent to incineration (without energy recovery) or landfill.
- C = the amount of original textile and textiles sent to sorting abroad.
  - C1 = the amount of textiles to second-hand sale in the sorting country.
  - C2 = the amount of textiles sent to second-hand sale in third country.
  - C3 = the amount of textiles sent to recycling.
  - C4 = the amount of textiles sent to energy recovery.
  - C5 = the amount of textiles sent to incineration (without energy recovery) or landfill.
- D = the amount of textiles sent to second-hand sale in the collection country.

Please fill in the Table with annual data (previous year). Please be prepared to provide documentation for your answers. The auditor will require this.

Sorting results according to C<sub>1</sub>–C<sub>5</sub> can be given to a collector either as specific to their textiles (if available) or as the average fractions of the sorting not specified for any specific supplier.

**Table 1: Annual data on textile flows to be filled in by the collector**

Position in flow chart	Description	Quantity (tonnes/year)	
		Original textiles (tonnes/year)	Textiles (tonnes/year)
<b>A</b>	Collected amounts of original textiles (please distinguish between in-store, container, kerb-side collection and other collection options)		
	In-store collection		
	Container collection		
	Kerbside collection		
	Other collection options		
<b>B</b>	(Pre)-sorted / Re-loaded amounts		
	<i>...of which is sent to:</i>		
<b>B<sub>1</sub></b>	Recycling		
<b>B<sub>2</sub><sup>17</sup></b>	Energy recovery		
<b>B<sub>3</sub><sup>18</sup></b>	Incineration without energy recovery or landfill		
<b>C</b>	Amounts sent to sorting abroad		
	<i>...of which is sent to:</i>		
<b>C<sub>1</sub></b>	Second-hand sale in the sorting country		
<b>C<sub>2</sub></b>	Second-hand sale in a third country		
<b>C<sub>3</sub></b>	Recycling		
<b>C<sub>4</sub><sup>19</sup></b>	Energy recovery		
<b>C<sub>5</sub><sup>20</sup></b>	Incineration without energy recovery or landfill		
<b>D</b>	Second-hand sale in the collection country <i>to be calculated</i>		
$(C_1+C_2+D)/A_{\text{textile}}$	Re-use rate		%
$(B_1+C_3)/A_{\text{textile}}$	Recycling rate		%
$(C_1+C_2+D+B_1+C_3)/A_{\text{textile}}$	Re-use and recycling rate		%

<sup>17</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

<sup>18</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

<sup>19</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

<sup>20</sup> Information about the share of textiles in the fraction sent energy recovery could for example be provided from waste analyses.

## Part 2: Documentation of compliance with criteria

In the following Chapters the criteria are divided as follows:

1. Information, transparency and reporting.
2. Collection.
3. Sorting (both in the collection country and abroad).
4. Second-hand sale (Re-use).
5. Environmental performance.
6. Social benefit.

Equal rules apply for export of textiles as well as for domestic sorting, re-use (sales) and recycling. Other existing third party certification ensuring compliance with the criteria of the certification may be used as documentation for international actors.

### 1. Information, transparency and reporting

**Table 2: Information, transparency and reporting, Criteria 1.1.-1.4**

Criteria 1.1.-1.4	check if fulfilled
Criterion 1.1: Traceability of textiles shall be possible from collection to the input of C <sub>1</sub> -C <sub>5</sub> (see flow chart), i.e. the collector shall be able to document the quantities of sorted textiles sent to second-hand sale in the sorting country, second-hand sale in a third country, recycling, energy recovery, and incineration without energy recovery or to landfill.	(X)
Criterion 1.2: The collector is responsible for gathering the required information. This includes information from third party organisations required to fulfil the criteria.	(X)
Criterion 1.3: Documentation shall include receipts of all transfer of textiles to and from collectors and sorters, resellers or recyclers. Sorters, resellers and recyclers shall be able to verify the fate of received textiles (overall or specific to signatory) either directly with receipts or via third party certification.	(X)
Criterion 1.4: All collected textiles shall be documented with weight and source of origin. <sup>21</sup>	(X)

The documentation outlined below should be provided to illustrate compliance with the Criteria.

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<sup>21</sup> The minimum requirement is to weigh collected textiles at reloading stations and in shops.

**Table 3: Information, transparency and reporting, Required documentation**

Required documentation	Incl.	N/A	Comment/Reference
1.1.1. Documented overview of the textile value chain, from collection to the outputs from sorting. This is to clarify to the auditor how collected textiles are managed within your organisation.	✓		
1.1.2 Documentation of the type (container, kerbside, in-store collection, other), location and number of collection points. As a minimum, location and type of collection point shall be specified on the municipal level.	✓		
1.1.3 Documentation of the number of second-hand shops your organisation operates (if any).	✓		
1.1.4 Documentation of the transportation and reloading of textiles from collection to sorting. <sup>22</sup>	✓		
1.1.5 Documented description of the routines for weighing the collected textiles. The description/routine shall include information about where in the value chain the textiles are weighed. The minimum requirement is to weigh the collected textiles at reloading stations and in shops. The collector shall be able to present documented weights.	✓		
1.1.6 Documented routines for ensuring that textiles remain dry along the value chain.	✓		
1.1.7 Documented routines for minimising theft of textiles from the value chain.	✓		

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<sup>22</sup> A main / average route description is appropriate if you have a variety of collection and transport routes.

## 2. Collection

**Table 4: Collection, Criterion 2.1**

Criterion 2.1 It should be made clear to the person delivering/donating used textiles to collection actors where the textiles are going, what the purpose of the collection is, who is performing the collection and how to find more information about the certification system		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment /reference
2.1.1 Documentation of routines for communicating the fate of the received textiles, the purpose of the collection and collector contact information. If the collector is already certified, documentation about the certification system shall be communicated. This will be verified by sample checks at collection points.	✓		

**Table 5: Collection, Criterion 2.2**

Criterion 2.2 Collectors shall not knowingly accept textiles that originate from illegal collection or textiles with uncertain origin		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
2.2.1 Documentation of the measures taken to minimize the possibility of receiving textiles from illegal collection.	✓		

**Table 6: Collection, Criterion 2.3**

Criterion 2.3 Collectors shall accept all textiles, i.e. both textiles aimed for re-use and textile waste. This includes torn, worn-out and incomplete textiles (e.g. single socks). This should be made clear to the consumer		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
2.3.1 Documentation of the communication that all textiles are accepted. This will be verified by sample checks at collection points.	✓		

**Table 7: Collection, Criterion 2.4**

Criterion 2.4 Information on which products are accepted shall be clearly stated to the consumer (see Table 9):			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.4.1 Documentation of how consumers are informed about the products accepted (textiles, shoes, bags, accessories etc.). The same requirement applies to all collection types (container, kerbside, in-store collection, other). The information shall be provided through stickers or similar that shall be placed on containers or in close connection to the in-store collection points.	✓		

**Table 8: Collection, Criterion 2.5**

Criterion 2.5 The collector shall have permission to collect waste as stipulated under national waste legislation in place in the relevant country(s)			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.5.1 Documented permission to collect waste.	✓		

**Table 9: Kerbside Collection, Criterion 2.6**

Criterion 2.6 If material is not collected, due to not being textile, being soiled or otherwise contaminated, written information shall be given to the consumer			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.6.1 Documentation of routines for providing written information to consumers about why the material is not collected.	✓		
2.6.2 Documentation of the frequency of uncollected material.	✓		

**Table 10: Container Collection, Criterion 2.7**

Criterion 2.7 Textile containers shall only be installed once the relevant documented authorisation has been obtained from local authority and/or land owner (see Table 12):			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
2.7.1 List of documented permissions from municipalities and other land owners. The list should include which municipalities/other land owners have given permission for your organisation to place collection containers in their region, as well as contact details (including name, telephone number and e-mail address) for each municipality/land owner.	✓		

**Table 11: Container Collection, Criterion 2.8**

Criterion 2.8 Container sites shall be well-maintained and the immediate area around the container shall be kept free from litter		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
2.8.1 Documentation of routines and follow-up for how container sites are kept well-maintained and free from waste and dispersed textiles.	✓		

**Table 12: Container Collection, Criterion 2.9**

Criterion 2.9 The collector shall ensure that containers are emptied frequently and that they are clearly marked with contact details in the event of problems (see Table 14):		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
2.9.1 Documentation of the emptying routines and follow-up for containers.	✓		
2.9.2 Documentation about the presence of contact details on the collection containers. This will be verified by sample checks.	✓		

### 3. Sorting (both in the collection country (B) and abroad (C))

Collectors shall require documented assurance from their contracted sorters that the sorters do not accept illegally collected textiles

**Table 13: Sorting, Criterion 3.1**

Criterion 3.1:			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
3.1.1 Documentation of assurance from contracted sorters that they do not accept illegally collected textiles.	✓		

**Table 14: Sorting, Criteria 3.2–3.5**

Criteria 3.2–3.5 Sorters shall report the annual amount and the share of the sorted textiles that are sent to:			X (check if fulfilled)
<ul style="list-style-type: none"> <li>• Re-use.</li> <li>• Recycling.</li> <li>• Incineration with energy recovery.</li> <li>• Incineration without energy recovery or landfill.</li> </ul> <p>Sorting results according to C3.2–3.5 can be given to a collector either as specific to their textiles (if available) or as the average fractions of the sorting not specified for any specific supplier:</p>			
Required documentation	Incl.	N/A	Comments/reference
3.2.1 Documentation of the destination and the amounts of textiles leaving the sorting plant(s). This links to the re-use rate in Part 1 of this checklist.	✓		

**Table 15: Sorting, Criterion 3.6**

Criterion 3.6 Collected used textiles shall only be sold to companies with the requested competence regarding handling of these material flows			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
3.6.1 Documentation on the contracted sorters competence in sorting textiles.	✓		

## 4. Second-hand sale (Re-use)

Table 16: Second-hand sale, Criterion 4.1

Criterion 4.1		X (check if fulfilled)	
Sales of textiles by a certified actor may only be associated with the certification system if all re-used textiles are included in the certification system. Sales of certified textiles together with new textiles are allowed if it is clear that new textiles are not collected within the certification system			
Required documentation	Incl.	N/A	Comment/reference
4.1.1 Documentation proving that all sales of textiles are included in the certification system. An alternative is to show how it is made clear to consumers that new textiles are not part of the certification system.	✓		

Table 17: Second-hand sale, Criterion 4.1

Criterion 4.1		X (check if fulfilled)	
Sales of textiles by a certified actor may only be associated with the certification system if all re-used textiles are included in the certification system. Sales of certified textiles together with new textiles are allowed if it is clear that new textiles are not collected within the certification system			
Required documentation	Incl.	N/A	Comment/reference
4.1.1 Documentation proving that all sales of textiles are included in the certification system. An alternative is to show how it is made clear to consumers that new textiles are not part of the certification system.	✓		

Table 18: Second-hand sale, Criterion 4.2

Criterion 4.2		X (check if fulfilled)	
The percentage of sold (or donated) used textiles as a share of received used textiles together with the fate of unsold textiles shall be reported. Only the sold or donated textiles may be included as re-used			
Required documentation	Incl.	N/A	Comment/reference
4.2.1 Documentation of the percentage of sold (or donated) used textiles as a share of collected used textiles. <sup>23,24</sup> This links to the re-use rate in Part 1 of this checklist.	✓		
4.2.2 Documentation of the percentage of collected used textiles that are sent to re-use. This links to the re-use rate in Part 1 of this checklist.	✓		

<sup>23</sup> Weight % required.

<sup>24</sup> Textiles going on to a new life, rather than final waste treatment, like incineration or landfill.

## 5. Environmental performance

Collected textiles shall be treated according to the waste hierarchy stated in the Waste Framework Directive (2008/98/EC).

**Table 19: Environmental performance, Criterion 5.1**

Criterion 5.1 The collector shall present action plans for increasing the amounts of textiles dealt with according to the waste hierarchy (see Table 21):			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
5.1.1 Documented action plan showing how the collector plans to increase the amount of textiles dealt with according to the waste hierarchy (i.e. increasing re-use and recycling)	✓		

**Table 20: Environmental performance, Criterion 5.2**

Criterion 5.2 At least 50% of collected textiles shall be re-used (annually) either by charity re-use, domestic sales or by export to an organization guaranteeing the level of re-use			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
5.2.1 Documentation that the collector meets the minimum re-use target described in Criterion 6.2. Please show the basis for the calculation. Note that the re-use level shall be calculated for textiles only (not original textiles). <sup>25</sup> Please state whether shoes and accessories are included in "textiles", or not. This links to the re-use rate in Part 1 of this checklist.	✓		

**Table 21: Environmental performance, Criterion 5.3**

Criterion 5.3 At least 90% of collected textiles shall either be re-used or used as input for recycling (annually)			X (check if fulfilled)
Required documentation	Incl.	N/A	Comment/reference
5.3.1 Documentation that the collector meets the minimum re-use/input to recycling target described in Criterion 6.3. Please show the basis for the calculation. Note that the re-use/input for recycling level shall be calculated for textiles only (not original textiles). Shoes and accessories may be included, but shall be informed of. This links to the re-use rate in Part 1 of this checklist.	✓		

<sup>25</sup> As shown in Criterion 6.5, shoes and accessories can be included in textiles, but it should be clearly stated whether they are included, or not.

**Table 22: Environmental performance, Criterion 5.4**

Criterion 5.4 Signatories comply with the criteria for environmental performance if they only re-use textiles and send the remaining textiles to another signatory that fulfils criteria C6.2 and C6.3		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
5.4.1 If your organisation sends textiles to another signatory that fulfils criteria C6.2 and C6.3, please provide documentation showing that the organisation fulfils these criteria.	✓		

**Table 23: Environmental performance, Criterion 5.5**

Criterion 5.5 Collected items that are not textiles should not be included in the calculation regardless of being waste or other products with the exception of shoes and accessories. If shoes are included, this should be clearly stated		X (check if fulfilled)	
Required documentation	Incl.	N/A	Comment/reference
5.5.1 Documentation for the presence or absence of shoes and accessories from the collected textiles.	✓		

## 6. Social benefit

**Table 24: Social benefit, Criterion 6.1**

<p><b>Criterion 6.1</b> A socially beneficial actor shall fulfill at least six of the following criteria:</p> <ul style="list-style-type: none"> <li>• Mainly reinvest profits in own or similar enterprises.</li> <li>• Be non-profit.</li> <li>• Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed.</li> <li>• Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership).</li> <li>• Be structurally independent from the public sector.</li> <li>• Be certified as having charity status.</li> <li>• Mainly be operated by volunteers.</li> <li>• Have clear and transparent economic accounting.</li> <li>• Protect human equity and equal rights.</li> <li>• Have as main purpose to improve living conditions for humans living under particularly difficult conditions.</li> </ul> <p>Clarifications of the social benefit criteria are available in Appendix 3.1.</p>		<p>X (check if fulfilled)</p>		
<b>Required documentation</b>	<b>Incl.</b>	<b>Number</b>	<b>N/A</b>	<b>Comment/reference</b>
6.1.1 Documentation supporting your organisation's compliance with at least six of the above criteria.	✓			

Please note that if significant changes are made during the certification period a supplementary certification shall be performed. If there is any uncertainty to whether a change constitutes a significant change, the certification system operator must be notified.<sup>26</sup>

I hereby confirm that I [organisation representative] have filled out this self-assessment checklist to the best of my ability and knowledge, and that the organisation-specific data supplied by [organisation name] (the Collector) is factually correct.

*Date:*

*Collector (signature):*

I hereby confirm as a third party, independent auditor that [organisation name] complies with the requirements of “The Nordic Textile Re-use and Recycling Commitment” for Collectors. The organisation-specific data has been examined as regards plausibility and consistency; the Collector is responsible for its actual integrity.

*Date:*

*Auditor (signature):*

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<sup>26</sup> Significant changes include changes in customers/partners. If a contract with an existing customer/partner is renewed without changes, this does not need to be reported.

### Appendix 3.1: Clarifications of social benefit criteria

*Social Criteria 1:* "Reinvest profits in own enterprise, similar enterprises or a charity" means that any profits from used textiles should be used for reinvestment in the organizations management of used textiles or given to an organization (which can be an owner) also meeting at least six of the criteria listed or meeting criteria number 6.

*Social Criteria 2:* "Be non-profit" means that no profits are given to any kind of owner, shareholder or other actor. Profits are used either to further develop the organization's internal management of used textiles or for purposes included in any of the remaining criteria.

*Social Criteria 3:* "Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed" is self-explanatory. A substantial part of the employees should fit into this category.

*Social Criteria 4:* "Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership)" means that most or all of the co-workers have a say in how the organization manage the used textiles and run their organization. (It is a mean for empowerment connecting to criteria 3)

*Social Criteria 5:* "Be structurally independent from the public sector" means that the organization should not be part of the public sector. It does not mean that it should not cooperate or receive funds or grants from the public sector for purposes included in any of the remaining criteria.

*Social Criteria 6:* "Be certified as having charity status" can differ between countries. In Sweden the go-account given by Svensk insamlingskontroll is a valid certification. In Norway an approval by Innsamlingskontrollen is a valid certification. In Denmark an approval by ISOBRO is a valid certification. For other countries, charity status can be decided by the system operator together with the certification committee.

*Social Criteria 7:* "Mainly be operated by volunteers" means that a majority of persons involved in the management of used textiles shall be without reimbursement for their services.

*Social Criteria 8:* "Have clear and transparent economic accounting" means that documentation must be clear enough to make it possible to verify that the other criteria is fulfilled. If criterion 6 is fulfilled either by Svensk Insamlingskontroll or Innsamlingskontrollen, this criterion is automatically met.

*Social Criteria 9:* "Have as main purpose to protect human equity and equal rights" means to have as main purpose to strengthen and protect human equity and equal rights by different means, be it economic, lobbying, education or other.

*Social Criteria 10:* "Have as main purpose to improve living conditions for humans living under particularly difficult conditions" means to improve living conditions for humans living under particularly difficult conditions by different means, be it economic, work training, aid, education or other.

### *Uncertainty of fulfilment of criteria*

The definitions of socially beneficial organizations are not always clear cut as extensively discussed in the reports used as basis for the chosen criteria. If there are uncertainties to whether an organization meets the criteria for social benefit the auditor may present the uncertainty to the system operator. The system operator then consults the certification committee which will evaluate and propose a recommendation. The system operator makes the final decision.

# Appendix 4: Criteria for collectors seeking certification for collection of textiles aimed for re-use only

## 1. Information, transparency and reporting

- *Criterion 1.1:*  
Traceability of textiles shall be possible from collection to the input of C1–C5 (see flow chart i checklist), i.e. the collector shall be able to document the quantities of sorted textiles sent to second-hand sale in the sorting country, second-hand sale in a third country, recycling, energy recovery, and incineration without energy recovery or to landfill.
- *Criterion 1.2:*  
The collector is responsible for gathering the required information. This includes information from third party organisations required to fulfil the criteria.
- *Criterion 1.3:*  
Documentation shall include receipts of all transfer of textiles to and from collectors and sorters, resellers or recyclers. Sorters, resellers and recyclers shall be able to verify the fate of received textiles (overall or specific to signatory) either directly with receipts or via third party certification.
- *Criterion 1.4:*  
All collected textiles shall be documented with weight and source of origin.<sup>27</sup>

## 2. Collection

- *Criterion 2.1:*  
It should be made clear to the person delivering/donating textiles aimed for re-use to collection actors where the textiles are going, that the purpose of the collection is to re-use the textiles, which organisation is performing the collection; and how to find more information about the certification system.
- *Criterion 2.2:*  
Collectors shall not knowingly accept textiles that originate from illegal collection or textiles with uncertain origin.

---

<sup>27</sup> The minimum requirement is to weigh collected textiles at reloading stations and in shops.

- *Criterion 2.3:*  
Information on which products are accepted shall be clearly stated to the consumer.

#### *Kerbside Collection*

- *Criterion 2.4:*  
If material is not collected, due to not being textile, being soiled or otherwise contaminated, written information shall be given to the consumer.

#### *Container collection*

- *Criterion 2.5:*  
Containers for textiles aimed for re-use shall only be installed once the relevant documented authorisation has been obtained from the local authority and/or land owner.
- *Criterion 2.6:*  
Container sites shall be well-maintained and the immediate area around the container shall be kept free from litter.
- *Criterion 2.7:*  
The collector shall ensure that containers are emptied frequently and that they are clearly marked with contact details in the event of problems.

### **3. Sorting (both in the collection country and abroad)**

- *Criterion 3.1:*  
Collectors shall require documented assurance from their contracted sorters that the sorters do not accept illegally collected textiles.
- *Criteria 3.2–3.5:*  
Sorters shall report the annual amount and the share of the sorted textiles aimed for re-use that are sent to:
  - Re-use.
  - Recycling.
  - Incineration with energy recovery.
  - Incineration without energy recovery or landfill.
 Sorting results according to C3.2–3.5 can be given to a collector either as specific to their textiles (if available) or as the average fractions of the sorting not specified for any specific supplier.
- *Criterion 3.6:*  
Collected textiles aimed for re-use shall only be sold to companies with the requested competence regarding handling of these material flows.

#### 4. Second-hand sale (re-use)

- *Criterion 4.1:*  
Sales of textiles by a certified actor may only be associated with the certification system if all re-used textiles are included in the certification system. Sales of certified textiles together with new textiles are allowed if it is clear that new textiles are not collected within the certification system.
- *Criterion 4.2:*  
The percentage of sold (or donated) textiles aimed for re-use as a share of received used textiles together with the fate of unsold textiles shall be reported. Only the sold or donated textiles may be included as re-used.

#### 5. Environmental performance

- *Criterion 5.1:*  
The collector shall present action plans for increasing the amounts of textiles that are dealt with according to the waste hierarchy.
- *Criterion 5.2:*  
At least 80% of the collected textiles aimed for re-use shall be re-used (annually) either by charity re-use, domestic sales or by export to an organization guaranteeing the level of re-use.
- *Criterion 5.3:*  
At least 90% of collected textiles shall either be re-used or used as input for recycling (annually).
- *Criterion 5.4:*  
Signatories comply with the criteria for environmental performance if they only re-use textiles and send the remaining textiles to another signatory that fulfils criteria C6.2 and C6.3.
- *Criterion 5.5:*  
Collected items that are not textiles should not be included in the calculation of re-use level with the exception of shoes and accessories. If shoes and accessories are included, this should be clearly stated.

## 6. Social benefit

- *Criterion 6.1:*

A socially beneficial actor shall fulfill at least six of the following criteria:

- Mainly reinvest profits in own or similar enterprises.
- Be non-profit.
- Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed.
- Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership).
- Be structurally independent from the public sector.
- Be certified as having charity status.
- Mainly be operated by volunteers.
- Have clear and transparent economic accounting.
- Protect human equity and equal rights.
- Have as main purpose to improve living conditions for humans living under particularly difficult conditions.

# Appendix 5: Criteria for collectors seeking certification for collection of textiles aimed for re-use and recycling

## 1. Information, transparency and reporting

- *Criterion 1.1:*  
Traceability of textiles shall be possible from collection to the input of C<sub>1</sub>–C<sub>5</sub> (see flow chart in checklist), i.e. the collector shall be able to document the quantities of sorted textiles sent to second-hand sale in the sorting country, second-hand sale in a third country, recycling, energy recovery, and incineration without energy recovery or to landfill.
- *Criterion 1.2:*  
The collector is responsible for gathering the required information. This includes information from third party organisations required to fulfil the criteria.
- *Criterion 1.3:*  
Documentation shall include receipts of all transfer of textiles to and from collectors and sorters, resellers or recyclers. Sorters, resellers and recyclers shall be able to verify the fate of received textiles (overall or specific to signatory) either directly with receipts or via third party certification.
- *Criterion 1.4:*  
All collected textiles shall be documented with weight and source of origin.<sup>28</sup>

## 2. Collection

- *Criterion 2.1:*  
It should be made clear to the person delivering/donating used textiles to collection actors where the textiles are going, that the purpose of the collection is to re-use and recycle the textiles, which organisation is performing the collection and how to find more information about the certification system.

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<sup>28</sup> The minimum requirement is to weigh collected textiles at reloading stations and in shops.

- *Criterion 2.2:*  
Collectors shall not knowingly accept textiles that originate from illegal collection or textiles with uncertain origin.
- *Criterion 2.3:*  
Collectors shall accept all textiles, i.e. both textiles aimed for re-use and textile waste. This includes torn, worn-out and incomplete textiles (e.g. single socks). This should be made clear to the consumer.
- *Criterion 2.4:*  
Information on which products are accepted shall be clearly stated to the consumer.
- *Criterion 2.5:*  
The collector shall have permission to collect waste as stipulated under national waste legislation in place in the relevant country(s).

#### *Kerbside Collection*

- *Criterion 2.6:*  
If material is not collected, due to not being textile, being soiled or otherwise contaminated, written information shall be given to the consumer.

#### *Container Collection*

- *Criterion 2.7:*  
Containers for textiles aimed for re-use and textile waste shall only be installed once the relevant documented authorisation has been obtained from the local authority and/or land owner.
- *Criterion 2.8:*  
Container sites shall be well-maintained and the immediate area around the container shall be kept free from litter.
- *Criterion 2.9:*  
The collector shall ensure that containers are emptied frequently and that they are clearly marked with contact details in the event of problems.

### 3. Sorting (both in the collection country and abroad)

- *Criterion 3.1:*  
Collectors shall require documented assurance from their contracted sorters that the sorters do not accept illegally collected textiles.
- *Criteria 3.2–3.5:*  
Sorters shall report the annual amount and the share of the sorted textiles that are sent to:
  - Re-use.
  - Recycling.
  - Incineration with energy recovery.
  - Incineration without energy recovery or landfill.Sorting results according to C<sub>3.2–3.5</sub> can be given to a collector either as specific to their textiles (if available) or as the average fractions of the sorting not specified for any specific supplier.
- *Criterion 3.6:*  
Collected used textiles shall only be sold to companies with the requested competence regarding handling of these material flows.

### 4. Second-hand sale (re-use)

- *Criterion 4.1:*  
Sales of textiles by a certified actor may only be associated with the certification system if all re-used textiles are included in the certification system. Sales of certified textiles together with new textiles are allowed if it is clear that new textiles are not collected within the certification system.
- *Criterion 4.2:*  
The percentage of sold (or donated) used textiles as a share of received used textiles together with the fate of unsold textiles shall be reported. Only the sold or donated textiles may be included as re-used.

### 5. Environmental performance

- *Criterion 5.1:*  
The collector shall present action plans for increasing the amounts of textiles that are dealt with according to the waste hierarchy.
- *Criterion 5.2:*  
At least 50% of collected textiles shall be re-used (annually) either by charity re-use, domestic sales or by export to an organization guaranteeing the level of re-use.

- *Criterion 5.3:*  
At least 90% of collected textiles shall either be re-used or used as input for recycling (annually).
- *Criterion 5.4:*  
Signatories comply with the criteria for environmental performance if they only re-use textiles and send the remaining textiles to another signatory that fulfils criteria C6.2 and C6.3.
- *Criterion 5.5:*  
Collected items that are not textiles should not be included in the calculation with the exception of shoes and accessories. If shoes are included, this should be clearly stated.

## 6. Social benefit

- *Criterion 6.1:* A socially beneficial actor shall fulfill at least six of the following criteria:
  - Mainly reinvest profits in own or similar enterprises.
  - Be non-profit.
  - Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed.
  - Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership).
  - Be structurally independent from the public sector.
  - Be certified as having charity status.
  - Mainly be operated by volunteers.
  - Have clear and transparent economic accounting.
  - Protect human equity and equal rights.
  - Have as main purpose to improve living conditions for humans living under particularly difficult conditions.

## Appendix 6: Auditor report

The following information shall be included in the auditor report to the CSO. The auditor must give comments on all criteria in a report, and make a report with the listed headlines.

1. Scope of the assessment.  
(The name of the collector, etc.)
2. Method.
3. Compliance with criteria.  
(The auditor must for every criterion conclude whether or not the criterion is fulfilled, and when needed add comments to the criteria.)
4. Other observations.  
xxxxx  
yyyyy
5. Contact names and contact details.
6. Conclusion.
7. Recommendations to the cso.
8. Other comments.



# Appendix 7: Legal Assessment of the Criteria – For Collectors seeking Certification pursuant to the Nordic Textile Re-use and Recycling Commitment

(Version 09-01-2017 – Revised 23 March 2017)

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## 1. Introduction to the Legal Assessment

This chapter outlines and analyses the legal framework relevant for assessing the Nordic Textile Re-use and Recycling Commitment. It focuses on waste law and how to delimit the applicability of waste law.

The EU has an extensive legal framework for waste management, including the regulation of specific waste streams and waste treatments. The key concepts and principles and the overall measures to be taken are thus laid down on an EU level and

accordingly the EU Member States (re Norway; the EEA Agreement) are required to take the necessary measures to comply with the EU minimum standards.

As a result, the national waste legislations are largely determined by the EU framework, which supposedly leaves a limited room for maneuver for the Member States. However, the EU legal framework is highly complex and the way in which the Member States implement the legislation or fail to implement it continues to be a main issue. For example the definition of waste and hence the applicability of waste legislation has for years given rise to a large number of cases before the Court of Justice of the European Union. Despite an extensive EU harmonization of the legal framework for waste handling, the legal frameworks of the four Nordic countries included in this study differs in many ways in their management of used textiles and textile waste.

The structure of this chapter is as follows: Section 2 focuses on the EU legal framework. It emphasizes on the overall legal frames as laid down in the EU umbrella regulation of the Framework Directive on Waste and the Waste Shipment Regulation, but does also include an introduction to the Regulation on Data Collection on Waste, the Concessions Directive and the implications of the general Treaty provisions on the free movement of services. Section 3 focuses on the legal compatibility of the proposed certification criteria, while section 4 provides an analysis of the main legal issues and problems. Finally, section 5 gives a more detailed account of the legal frameworks applicable in the Nordic countries.

## 2. The EU Legal Framework

The Treaty on European Union states that it is an objective of the EU to work for a sustainable development aiming at a high level of protection and improvement of the quality of the environment; cf. Art. 3(3). The Treaty on the Functioning of the European Union (TFEU) clarifies that the environment should be a policy of shared competences between the EU and its Member States; cf. Art. 4(2) *litra e*. It implies that both the EU and its Member States may legislate and adopt legally binding acts on the environment. However, the Member States may only exercise their competence to the extent that the EU has not exercised its competence; cf. Art. 2(2) TFEU.

The EU environment policy is based on Art. 191 TFEU. Accordingly, it aims to preserve, protect and improve the quality of the environment and to protect human health. It is based on the principles of precautionary, preventive action, correction at source and the polluter pays. The choice of legal basis is decisive for what room remains for national legal actions. The main legal basis for adopting environmental measures is Art. 192. A core feature of environmental measures based on Art. 192 is that they do not entail full harmonisation but establishes a minimum level of protection. Thus, it allows for “more stringent protective measures” maintained or introduced by the Member States provided that such measures are compatible with EU law; cf. Art. 193 TFEU.

The EU has for long had an extensive legal and policy framework for waste. According to the most recent Environment Action Programme – the 7th Environment Action Programme to 2020 (“Living well, within the limits of our planet”, 2014) – a key

objective for waste management is besides reducing the amount of waste generated that re-use and recycling is maximized. Formally, the Environment Action Programme has been adopted in accordance with the ordinary legislative procedure making it somehow a source of law; cf. Art. 192(3). As part of the policy framework to improve resource efficiency and create a more circular economy covering the whole cycle from production and consumption to waste management and the market for secondary raw materials, the EU Commission has adopted a Proposal for a Directive amending the current Framework Directive on Waste (COM(2015) 595 final). The Proposal features a new definition of “municipal waste”, which specifically includes textiles both as a mixed waste and as a separately collected waste from householdings; cf. Art. 3(1) of the Proposal. Furthermore, it introduces a new provision on the prevention of waste, which requires that the Member States take measures to prevent waste generation by setting up systems that promote the re-use of i.a. textiles.

From an overall perspective, the EU waste legislation is based on three levels of legislation moving from a comprehensive and all-encompassing level to the detailed level of specific waste streams. With regard to used textiles, three legal acts are of specific importance. First, the Framework Directive on Waste, which provides the overall legal base of EU waste legislation. As an umbrella regulation it represents the main legislative instrument, it defines the EU waste principles and introduces basic policy instruments to implement the principles. It lays down a set of rules for the proper management of waste in the EU, aiming at the reduction of the environmental impact of waste, and encouraging resource efficiency through reuse, recycling and recovery. Furthermore, the Directive provides definitions of key concepts such as waste, end-of-waste status, re-use and recycling.

**Table 1: Overview of EU Waste Legislation**

Overview of EU Waste Legislation		
General Framework	Waste Framework Directive	
	Shipments of Waste Regulation	Waste Data Collection Regulation
Waste Management Operations	Landfill Directive	Industrial Emissions Directive/BREFs
Specific Waste Streams	Packaging Waste; Batteries and Accumulators; WEEE; ELVs etc.	

Note: This table provides an overview of EU waste legislation. The legal acts of specific importance for this study are highlighted with green

Also on the general level, we find the Waste Shipment Regulation, which applies to all EU and international waste shipments, for all purposes, within, into or out of the EU. It sets out a system of control for the movement of waste and specifies the documentation to be provided and the security measures to be taken during transportation. Last, we have the legal framework for the production of waste management statistics at EU level. The Regulation on Data Collection on Waste stipulates the reporting requirements for the Member States. Accordingly, they are obliged to provide data to monitor the implementation of EU policy on the generation, recovery and disposal of waste.

## 2.1 *The Framework Directive on Waste*

Directive 2008/98/EC, the Framework Directive on Waste establishes the basic concepts and definitions related to waste management. It also defines when waste is no longer a waste, but becomes a secondary raw material, and what the difference between waste and by-products is. Furthermore, it lays down the waste management hierarchy, which determines how the EU Member States should organize their waste treatment. As guidance to the Framework Directive on Waste, the Directorate-General Environment of the European Commission has issued non-binding guidelines of interpretation intended to help the national authorities. However, naturally, the binding interpretation of EU waste legislation is the exclusive competence of the Court of Justice of the European Union.

For decades, the waste directives and especially the Framework Directive on Waste have given rise to a large number of cases before the Court of Justice. The main type of cases is the infringement proceedings in which the Commission initiates proceedings against a Member State for i.a. non-compliance or implementation failures. Another important type is the preliminary rulings, which the Court of Justice issues pursuant to requests from Member State courts. The most common reason to consider a decision from the Court of Justice necessary for a pending national case is the need for an interpretation of the EU provisions relevant to the individual case. In many cases, the Court of Justice formulates its decision in a way, which involves a rather clear position, i.a. regarding particular national provisions' compatibility with EU law. It is, however, for the national court to apply the interpretation of EU law to the individual case and give the final judgement in the national case. Especially the preliminary rulings have often led the Court of Justice to make fundamentally important statements. However, such statements are not always easily applied to national law and will often leave some room for discussions on the "correct" interpretation of the preliminary ruling and the EU consistency of the relevant national provisions.

The definition of waste is decisive for whether an object is subject to the strict waste legislation. A substance or object is either waste or non-waste. Article 3(1) of the Framework Directive on Waste defines waste as "any substance or object which the holder discards or intends or is required to discard". The key term of the EU waste definition is "discard", which is used in three alternatives – act, intention or obligation.

A typical example of an action of "discarding" is when someone throws a textile item in a waste container. As a result of the "discarding" act, the textile item or material will at this stage be considered waste no matter the subsequent treatment, the level of environmental risk or economic value. This is well-established in EU case law. The Court of Justice of the European Union has been required to clarify and interpret the concept of waste on several occasions. It has among other things stated the term "discard" applies to both recovery and disposal of waste (cf. joined cases C-418/97 and C-419/97 ARCO Chemie, para 51 and Case C-9/00 Palin Granit Oy, para 27) and that "discard" can involve a positive, neutral or negative commercial value. Furthermore, the Court of Justice has stated that any risks to human health or the environment are not relevant criteria for determining whether an item is to be regarded as waste (cf. Palin Granit Oy,

para 51). Also repeatedly, the Court of Justice has ruled that the waste definition cannot be interpreted restrictively (cf. e.g. ARCO Chemie, para 37 to 40).

This absolute distinction between waste and non-waste is reflected in the waste hierarchy. Accordingly, Member States have to take measures for the treatment of their waste in line with the waste hierarchy stipulated in Article 4 of the Framework Directive on Waste. The waste hierarchy dictates the priority order that first waste should be prevented, which would also include re-use, and if this is not possible then it should in the following order be prepared for re-use, recycled, used for other recovery, e.g. energy recovery, and as a last resort it should be disposed of by incineration or landfilling.

The Framework Directive on Waste defines re-use as any operation by which products that are not waste are used again for the same purpose for which they were conceived, cf. Article 3(13). Consequently, if a person takes over e.g. a piece of clothing, directly from the current owner with the intention of re-using it for the same purpose (even if some repairing is necessary), this comprises evidence that the material is not a waste, cf. Guidance on the interpretation of key provisions of Directive 2008/98/EC on waste (hereafter EU Commission Guidance Document). In other words, if used clothing is delivered at a collection container installed for this purpose only or handed over to a second hand shop with the intention of re-use and the used clothing can be re-used for the same purpose as conceived, then the used clothing is considered a product and would not be subject to waste legislation. Likewise, the holder of the used clothing is not considered a waste holder or collector.

The Framework Directive on Waste defines preparing for re-use as “checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing”; cf. Article 3(16). By definition, preparing for re-use is a specific case of recovery. The key difference between “re-use” and “preparing for re-use” is that in the former case the clothing has not become a waste, whereas in the case of “preparing for re-use”, the clothing in question has become waste in the meaning of the waste definition; cf. EU Commission Guidance Document.

The initial separation of textiles for re-use and textile waste is of vital importance to the classification. If a person throws used clothing in a collection container for used textiles in general, perhaps marked as “textiles for re-use and recycling”, in other words comprising both ready-to-reuse clothing and rags, then it would as a first operation need at least a checking, since not all clothing in the container will be ready to use. Furthermore, it may also need a cleaning or even repairing operation to be re-used. Moreover, the action of disposal may not be intended for reuse only. Due to the mixing of re-usable textiles and waste, the collected textiles will presumably be classified as waste. In other words, from an EU law perspective, the collection of used clothing in containers comprising both textiles for re-use and textile waste would most probably entail that the subsequent handling is a waste operation. As a result of the first “operation”, the collector of the clothing is considered a waste collector and also a holder of waste until the waste has been prepared for re-use or has been recycled etc.

In two key areas the 2008 Framework Directive on Waste has clarified the concept of waste; first of all by incorporating the concept of by-products, cf. Article 5, and secondly by the introduction of end-of-waste criteria, cf. Article 6.

When a material has been subject to “discarding”; and is therefore a waste, it may not stay waste. So far, no end-of-waste criteria are set for textile waste streams at an EU level and they do not seem to be in the pipeline, however according to the wording of the provision, specific criteria for textiles should be considered, cf. Article 6(2). Where end-of-waste criteria have not been set at EU level, Member States may decide on such criteria on a case-by-case basis taking into consideration EU law and case law and provided that the Commission has been notified.

The concept of by-products introduces a distinction between waste and non-waste which is applicable to industrial by-products only. The concept excludes the by-product from the definition of waste as long as they meet a number of criteria for re-use. As a result by-products are regarded as non-waste. A by-product is a result of a production process, the primary aim of which is not the production of the by-product, and where the by-product meets all the following conditions: 1) the further use of the item is certain; 2) the item can be used directly without any further processing other than normal industrial practice; 3) the item is produced as an integral part of a production process; and 4) further use is lawful. The by-product concept is an expansion of the understanding of when an item is not regarded as waste, as it is not a requirement that the item can be “used again for the same purpose for which they were conceived”, cf. the definition of re-use. However, it can only be applied to objects resulting from a production process; cf. Case C-416/02, *Commission of the European Communities v Kingdom of Spain*, para 91. As a result, a production residue that fulfils the conditions of Article 5 is a by-product, and the further handling of the product is outside the scope of waste legislation. If it does not fulfil the conditions, then the holder is considered a waste holder and the gathering of the production residues is waste collection.

The Framework Directive on Waste defines collection as “the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility”, cf. Article 3(10). According to Article 23, permits are required for waste treatment operations, but not for waste collection and preliminary sorting and storage, which is regarded as part of the collection. Pursuant to Article 26, Member States’ competent authorities are obliged to keep a register of those undertakings collecting waste on a professional basis that are not obliged to hold a permit. By contrast, any waste collection activity which is not conducted on a professional basis is exempted from registration. The Preamble Recital 17 lists the following examples of such “non-professional” schemes: “waste medicines collected by pharmacies, take-back schemes in shops for consumer goods and community schemes in schools”. Accordingly, private take-back schemes for textile waste established by e.g. stores would be exempted from registration under EU law. Establishments or undertakings that carry waste normally and regularly would be collecting “on a professional basis” and consequently would have to be registered with the competent authorities. Thus, a charitable organization, which collects textile waste would most likely be considered a collector on a professional basis.

## ***2.2 The Regulation on Shipments of Waste***

Shipment of waste is regulated in the EU Regulation 1013/2006 on shipment of waste. The Regulation also applies to countries in the European Economic Area, a.i. Norway. The Regulation implements into EU law the "Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal" as well as the OECD Decision. The OECD Control System is based on two types of control procedures: The "green procedure" for wastes that present low risk for human health and the environment and, therefore, are not subject to any other controls than those normally applied in commercial transactions; and secondly the "amber procedure" for wastes presenting sufficient risk to justify their control.

The EU Regulation addresses the problem of uncontrolled transport of waste. It establishes procedures and a control system for the shipment of waste. The procedures differ depending on the destination of the waste, the waste type and which waste operation the waste will undergo at its destination etc. For the shipment of waste the principles of self-sufficiency, proximity of waste for disposal and prior informed consent must be taken into account. The Regulation distinguishes between shipments of waste between the Member States and countries in the European Economic Area and shipments out of the EU; to and from third countries. Regarding the latter, an important distinction is made between OECD Decision-countries and Non-OECD Decision countries. A second important distinction relates to the treatment operations, recovery and disposal, and finally there are different lists of waste to which different regimes apply, the so-called green list and amber list. The shipment of green-listed waste is subject to general information requirements, which is much less burdensome than the procedure for waste on the amber list; a prior informed consent procedure. However, when exported to non-OECD countries also green-listed waste is subject to the general information requirement. Textile waste is in most cases considered green-listed waste.

The Regulation establishes procedures for the shipment of waste only, thus it is decisive whether the object destined for shipment is regarded as waste or not. It should be noted that textiles for reuse is considered a product and is therefore not waste and consequently not subject to the EU Regulation.

## ***2.3 The Regulation on Data Collection on Waste***

The aim of Regulation No 2150/2002 on Waste Statistics is to produce statistics on waste falling under the scope of the Framework Directive on Waste. The Regulation lays down the data to be submitted and the quality required, while the choice of the specific method of drawing up waste statistics is left to the Member States. This enables them to keep their data collection systems and minimize the burden of complying with the Regulation.

The Regulation (Annex I, section 7) requires Member States to submit a quality report along with the data. In these reports, Member States refer to quality elements commonly used in the European Statistical System and set out in Commission Regulation No 1445/2005 on the quality of waste statistics. The Commission regulation establishes the breakdown for reporting to the EU by waste category according to the

European Waste Classification for Statistics. However, it does not stipulate a specific classification to be used for national data collection.

### ***2.3 Free Movement of Services pertaining to the Collection of Textile Waste***

While Article 23 of the Waste Framework Directive does not require permits for waste collection and preliminary sorting and storage activities (as opposed to waste treatment operations proper), however Member States may choose to adopt such requirements on their own.

If such national requirements are adopted, however, the question arises whether they may constitute restrictions on freedom to provide services within the meaning of Article 56 (1) of the Treaty of the Functioning of the European Union.

Specifically with regard to the Nordic textile reuse and recycling commitment, such restrictions may arise as a result of the criteria which a collector must fulfill in order to obtain a certification for the collection of textile waste on behalf of the municipalities.

On the one hand, the system as such may be considered voluntary in a formal sense. Thus the Nordic textile reuse and recycling commitment does not require municipalities to make certification a legally binding requirement for obtaining permission to the collection of textile waste.

However, on the other hand, the Nordic textile reuse and recycling commitment does state that “Municipalities shall, where possible, prioritise signatories when giving permits for collection on public land.”

If as a result of such a prioritization a non-certified collector is being refused a permit for the collection of textile waste, the criteria may in practice be considered restrictions on freedom to provide services within the meaning of Article 56 (1) of the Treaty of the Functioning of the European Union.

This would again, however, presume that the collection of textile waste as such falls within the application of this provision at all.

Under Article 56 (1) of the Treaty of the Functioning of the European Union, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.

The term “restriction” within the meaning of Article 56 (1) covers all measures which prohibit, impede or render less attractive the freedom to provide services. A restriction on the freedom to provide services may be justified where it serves overriding requirements relating to the public interest, is suitable for securing the attainment of the objective which it pursues and does not go beyond what is necessary in order to attain it, cf. Case C-518/06, *Commission of the European Communities v Italian Republic*, paras 62 and 72.

Services are considered to be “services” within the meaning of the Treaties where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons, cf. Article 56 (1) of the Treaty of the Functioning of the European Union.

Supplementing the abovementioned Treaty Provisions, Directive 2006/123/EC on services in the internal market (the Service Directive) establishes a general legal framework which benefits a wide variety of services while taking into account the distinctive features of each type of activity or profession and its system of regulation.

The Service Directive applies to Services as defined in Article 56 (1) of the Treaty of the Functioning of the European Union. Article 16 of the Directive lays down a fundamental obligation for Member States to respect the freedom to provide services. According to this provision Member States shall not make access to or exercise of a service activity in their territory subject to compliance with any requirements which do not respect the principles of non-discrimination, necessity and proportionality. The meaning of these principles is further described in Article 16 (1) (a)–(c).

Exempted from the Services Directive in general and the obligation under Article 16 in particular, however, are non-economic services of general interest, including treatment of waste, cf. Article 2(2)(a) and Article 17 (1)(e) of the Directive (emphasis added).

This is in accordance with the scope of the definition of services in Article 56 (1) of the Treaty of the Functioning of the European Union, cf. preamble (17) of the Directive which reads as follows:

This Directive covers only services which are performed for an economic consideration. Services of general interest are not covered by the definition in [Article 56] of the Treaty and therefore do not fall within the scope of this Directive. Services of general economic interest are services that are performed for an economic consideration and therefore do fall within the scope of this Directive.

As regards services relating to the collection of textile waste, the question arises whether these may constitute services of general interest – and thus fall outside the scope of the rules on free movement of services – or services of general economic interest. In the latter case, any restrictions regarding the freedom to provide them must respect the principles of non-discrimination, necessity and proportionality as defined in Article 16 (1) (a)–(c) of the Services Directive.

This again depends on whether services relating to waste collection are performed for an economic consideration.

In the present context of the Nordic textile reuse and recycling commitment, it appears that the collectors of textile waste have in fact received no economic consideration from the municipalities in exchange for their services. On the contrary, some collectors in Norway have ostensibly been paying the municipalities to be allowed to collect textiles in their municipality, cf. Draft Summary report from Part 2 Implementation, p. 36.

Assuming this to be the case in general, the collection of textile waste in accordance with the Nordic textile reuse and recycling commitment would in practice fall outside the scope of the prohibition against restrictions on the freedom to provide services under Article 56 of the Treaty of the Functioning of the European Union and Article 16 of the Services Directive.

## 2.4 The Concessions Directive

The Concessions Directive 2014/23/EU on the award of concession contracts (the Concessions directive) establishes rules on the procedures for procurement by contracting authorities and contracting entities by means of a concession, whose value equals or exceeds a threshold of 5.186.000 euro, cf. Article 1 (1) and 8 (1) of the Directive.

The collection of textile waste in accordance with the Nordic textile reuse and recycling commitment may constitute a services concession.

A services concession is defined in Article 5 (1) (b) of the Directive as:

a contract for pecuniary interest ... by means of which one or more contracting authorities ... entrust the provision and the management of services ... to one or more economic operators, the consideration of which consists either solely in the right to exploit the services that are the subject of the contract or in that right together with payment.

As already mentioned, collectors of textile waste in accordance with the Nordic textile reuse and recycling commitment have thus carried out this service on behalf of the municipality without any economic consideration or may in fact have been paying the municipalities for the right to do so.

The threshold value of 5.186.000 euro is calculated as the total turnover of the concessionaire generated over the duration of the contract, net of VAT, as estimated by the contracting authority or the contracting entity, in consideration for the works and services being the object of the concession, as well as for the supplies incidental to such works and services, cf. Article 8 (2) of the Directive.

This amount would include inter alia revenue from the selling of textiles for reuse. In the case of commercial collectors – such as clothing stores using the collection of textiles for marketing purposes – the amount may also include a calculated share of the additional revenues obtained hereby.

To the extent that a permit for the collection of textile waste may thus be taken to constitute a services concession within the meaning of the directive, and its economic value equals or exceeds a threshold of 5.186.000 euro, it must be granted in accordance with the procedures and requirement laid down by the directive.

Whether the collection of textile waste may be considered a services concession within the meaning of the directive and thus subject to these requirements, depends on how the definition in Article 5 (1) (b) may be applied in practice.

We assume this to be the case in general, at least in those cases where the provision and administration of services relating to the collection of textile waste is granted by the municipalities to a collector on the basis of a contract, and no economic consideration is being offered by the municipality.

In awarding concessions within the scope of the directive, contracting authorities and contracting entities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner, cf. Article 3 of the Directive.

The award criteria shall be linked to the subject-matter of the concession, and shall not confer an unrestricted freedom of choice on the contracting authority or the

contracting entity. They may include, inter alia, environmental, social or innovation-related criteria, cf. Article 41 (2).

While Article 41 (2) of the Directive thus allows for the use of social criteria not unlike those laid down in the Nordic textile reuse and recycling commitment, any such criteria must therefore be linked to the subject matter of the concession, which in this case would be the collection of textile waste on behalf of the municipality.

### 3. Legal Compatibility of the Proposed Certification Criteria

The table below seeks to provide an overview of the legal assessment of each individual certification criterion proposed. It is important to emphasize that the table merely reflects some very simplified answers consisting of a “yes” or “no” or “partly”, and it will in most cases – even with an additional short explanation – not be sufficient to explain the complexity of the legal assessment. Thus, the table must be read in close conjunction with section 4 on legal issues and problems and the national law accounts in section 5 of this chapter.

In the table, the proposed certification criteria have been shortened into a few key words. The certification criteria are grouped as follows:

- Information, transparency and reporting
- Collection
- Sorting
- Second-hand sale
- Export for sorting abroad
- Environmental performance

In the table the certification criteria for “textile re-use collection” and the criteria for “textile re-use and waste collection” have been listed successively under the same theme. The green boxes highlight the certification criteria for collectors gathering textiles both for re-use and as waste and the criteria have also been marked with a “W” (e.g. “W-C.2.10 Collection frequency”).

The table includes an assessment of EU law and the national legal frameworks of the Nordic countries included in the study. It lists first the EU and then follows Denmark, Finland, Norway and Sweden. Each legal framework is divided into two simple assessment criteria, “required” and “compatible”. “Required” refers to “required by law”, which is an assessment of whether the proposed criteria is already codified in law or can be derived from existing legal obligations, while “compatible” refers to “compatible with law”, meaning whether the criteria would be consistent with the legislation in place. In other words, is there already an existing obligation under current law – and if not – would it be possible to have such a criteria without breaching current law.

The criteria as such are in general not problematic from a legal perspective. Only in a few places are the criteria not consistent with existing legislation or may be

problematic depending upon how the criteria are applied. Accordingly, the orange boxes indicate that there may be issues of compatibility with the legal framework of one or more legal frameworks. Each orange box is briefly explained below in the annotations or with references to other sections/subsections of the chapter.

### 3.1 Overview of the Legal Compatibility of the Proposed Certification Criteria

**Table 2: Overview of the Legal Compatibility of the Proposed Certification Criteria**

		EU legislation		Denmark (dk)		Finland (fi)		Norway (no)		Sweden	
		Required	Compatible	Required	Compatible	Required	Compatible	Required	Compatible	Required	Compatible
Information, transparency and reporting (Re-use only)	C.1.1 Traceability from collection to end-use	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	C.1.2 Collector responsibility for acquiring information	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	C.1.3 Documentation – receipts or 3rd party certification	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	C.1.4 Documented weight and origin	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
Information, transparency and reporting (Join re-use/ waste collection)	W-C.1.1 Traceability from collection to end-use	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	W-C.1.2 Collector responsibility for acquiring information	No	Yes	Partly <sup>dk</sup>	Yes	Partly <sup>fi</sup>	Yes	Partly	Yes	Partly <sup>se</sup>	Yes
	W-C.1.3 Documentation – receipts or 3 <sup>rd</sup> party certification	No	Yes	Partly <sup>dk</sup>	Yes	Partly <sup>fi</sup>	Yes	Partly	Yes	Partly <sup>se</sup>	Yes
	W-C.1.4 Documented weight and origin	Partly <sup>eu</sup>	Yes	Partly <sup>dk</sup>	Yes	Partly <sup>fi</sup>	Yes	Partly	Yes	Partly <sup>se</sup>	Yes
Collection (Re-use only)	C.2.1 Giver information and transparency	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	C.2.2 No illegal textiles or uncertain origin <sup>ALL</sup>	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	C.2.3. Information on scope of collection	No	Yes	Partly <sup>dk</sup>	Yes	No	Yes	Partly	Yes	No	Yes
	C.2.4 Rejection of curbside collection	No	Yes	No	Yes	Partly <sup>fi</sup>	Yes	No	Yes	Partly <sup>se</sup>	Yes
	C.2.5 Authorized containers	No	Yes	Yes	Yes	Partly <sup>fi</sup>	Yes	Yes	Yes	Partly <sup>se</sup>	Yes
	C.2.6 Maintenance of container site	No	Yes	Yes	Yes	Partly <sup>fi</sup>	Yes	Yes	Yes	Partly <sup>se</sup>	Yes
	C.2.7 Collection frequency	No	Yes	Partly <sup>dk</sup>	Yes	Partly <sup>fi</sup>	Yes	Partly	Yes	Partly <sup>se</sup>	Yes
Collection (Joint re-use/ waste collection)	W-C.2.1 Giver information and transparency	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	W-C.2.2 No illegal textiles or uncertain origin	No	Yes	Partly <sup>dk</sup>	Partly <sup>dk</sup>	No	Partly <sup>fi</sup>	Partly	Partly	No	Yes
	W-C.2.3 Acceptance of all textiles	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	W-C.2.4 Information on scope of collection	No	Yes	Yes <sup>dk</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	W-C.2.5 Permission to collect waste	Yes <sup>eu</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	W-C.2.6 Contractual relation with municipal authorities	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	W-C.2.7 Rejection of curbside collection	No	Yes	Partly <sup>dk</sup>	Partly <sup>dk</sup>	Partly <sup>fi</sup>	Yes	Partly	Yes	Yes	Yes
	W-C.2.8 Authorized containers	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	W-C.2.9 Maintenance of container site	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	W-C.2.10 Collection frequency	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

		EU legislation		Denmark (dk)		Finland (fi)		Norway (no)		Sweden	
		Required	Compatible	Required	Compatible	Required	Compatible	Required	Compatible	Required	Compatible
Sorting (Re-use only)	C.3.1 No illegal textiles <sup>ALL</sup>	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	C.3.2 – C.3.5 Reporting on amount for re-use, recycling, energy recovery and disposal	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
Sorting (Reuse/waste collection)	W-C.3.1 No illegal textiles	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	W-C.3.2 – C.3.5 Reporting on amount for re-use, recycling, energy recovery and disposal	Yes	Yes	Yes	Yes	Partly <sup>fi</sup>	Yes	Partly	Yes	Partly <sup>se</sup>	Yes
Secondhand sale (Reuse only)	C.4.1 Reporting on percentage of sold/donated of the total amount received, including end-use of unsold textiles	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
Secondhand sale (Reuse/waste collection)	W-C.4.1 Reporting on percentage of sold/donated of the total amount received, including end-use of unsold textiles	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
Export for sorting (Re-use only)	C.5.1 Only Buyers with relevant skills and qualifications	No	Partly <sup>eu</sup>	No	Partly <sup>dk</sup>	No	Partly <sup>fi</sup>	No	Partly	No	Partly <sup>se</sup>
Export for sorting (Reuse/waste collection)	W-C.5.1 Only Buyers with relevant skills and qualifications	No	Partly <sup>eu</sup>	No	Partly <sup>dk</sup>	No	Partly <sup>fi</sup>	No	Partly	No	Partly <sup>se</sup>
Environmental performance (Re-use only)	C.6.1 Action plan for increased re-use	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	C.6.2 Compliance with re-use objective	No	Yes	No	Yes	No	Yes	No	Yes	Yes	Yes
	C.6.3 Compliance with re-use/recycling objective	No	Yes	No	Yes	No	Yes	No	Yes	Yes	Yes
	C.6.4 Obligation to only sell-donate to other signatories complying with C.6.2-3	No	Partly <sup>eu</sup>	No	Partly <sup>dk</sup>	No	Partly <sup>fi</sup>	No	Partly <sup>no</sup>	No	Partly <sup>se</sup>
	C.6.5 Defining the objects included in calculation of re-use level	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
Environmental performance (Reuse/waste collection)	W-C.6.1 Action plan for increased re-use	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
	W-C.6.2 Compliance with re-use objective	Partly <sup>eu</sup>	Yes	Partly <sup>dk</sup>	Yes	Partly <sup>fi</sup>	Yes	Partly	Yes	Yes	Yes
	W-C.6.3 Compliance with re-use/recycling objective	Partly <sup>eu</sup>	Yes	Partly <sup>dk</sup>	Yes	Partly <sup>fi</sup>	Yes	Partly	Yes	Yes	Yes
	W-C.6.4 Obligation to only sell-donate to other signatories complying with C.6.2-3	No	Partly <sup>eu</sup>	No	Partly <sup>dk</sup>	No	Partly <sup>fi</sup>	Partly	Yes	Partly <sup>se</sup>	Partly <sup>se</sup>
	W-C.6.5 Defining the objects included in calculation of re-use level	No	Yes	No	Yes	No	Yes	No	Yes	Partly <sup>se</sup>	Yes

### 3.2 Annotations

#### Re. W-C.1.2: Collector responsibility for acquiring information

dk) According to the Statutory Order on Waste Data, collectors are responsible for reporting to the Waste Data System. For example if the collection of textiles subject to a municipal waste scheme by contract is assigned to a charity, the charity is required by law to compile information on the collected quantities and report this to the Waste Data System.

fi) The municipal authority is solely responsible for organizing the collection of municipal waste, including household and textile waste. A waste collector or a waste carrier acting on behalf of the municipal authority must report on the amounts and types of waste collected to the municipality on a regular basis (Section 39, Waste Act).

se) It is the municipalities' responsibility.

#### Re. W-C.1.3 Documentation – receipts or third party certification

dk), fi), se) See comment W-C.1.2 above.

#### Re. W-C.1.4 Documented weight and origin

eu) The reporting unit of Regulation No 2150/2002 on Waste Statistics is the weight of the waste. Furthermore, the origin of the waste is reported and referred to by using broad categories such as households, agriculture, manufacture of food products etc.

dk), fi), se) See also comment W-C.1.2 above.

#### Re. C.2.2 No illegal textiles or uncertain origin

ALL) Naturally, no criminal activities are allowed.

#### Re. C.2.3. Information on scope of collection

dk) Usually, the collector is obliged to clearly state the scope of the collection to the users by contractual agreement with the municipality.

#### Re. C.2.4 Rejection of curbside collection

fi) If textiles for re-use are collected in connection with municipal waste collection points, which some municipal authorities might require, the use of the containers is regulated through contractual relations between the textile collector and the municipal authority in charge of waste collection.

se) It is not required by general law, but can be restricted in municipal regulations.

#### Re. C.2.5 Authorized containers

fi), se) See comment C.2.4 above.

#### Re. C.2.6 Maintenance of container site

fi), se) See comment C.2.4 above.

#### **Re. C.2.7 Collection frequency**

dk) Usually, the collector will contractually agree with the municipality on collection frequency.

fi), se) See comment C.2.4 above.

#### **Re W-C.2.2 No illegal textiles or uncertain origin**

ALL) Naturally, no criminal activities are allowed.

dk) The municipality is eventually responsible for handling all waste; including illegal waste if the responsible party cannot be identified. If the collector by contractual agreement has taken over the collection of used textiles, then the scope of the task is determined in the contract.

fi) The municipal authority is solely responsible for the end-disposal of household textile waste and other such textile waste regardless of its origins (Sections 32 and 33, Waste Act).

#### **Re. W-C.2.4 Information on scope of collection**

dk) All waste collection schemes for households will have to be described in the municipal waste regulation. The municipal waste regulation is the primary source (the local binding legislation) of information when households seek information about waste management.

fi) Certain quality standards and reporting duties have been set for municipal waste management services (Section 34, Waste Act; Waste Deree).

#### **Re. W-C.2.5 Permission to collect waste**

eu) Pursuant to Art. 26 of the Framework Directive on Waste, Member States' competent authorities are obliged to keep a register of those undertakings collecting waste on a professional basis that are not obliged to hold a permit as a waste treatment facility according to Art. 23. Charitable organizations, which regularly collect waste, would most likely be considered collectors on a professional basis, and would have to register.

#### **Re. W-C.2.7 Rejection of curbside collection**

dk) Since the collection of household waste is an exclusive right of the municipality (if not outsourced) and it by law is picked up at the curbside, then any restrictions should follow from the municipal waste regulation.

fi) Waste falling within the municipal waste management system is collected from agreed reception points at private properties, or in scarcely habited areas, from generally agreed waste reception points (Chapter 5, Waste Act).

#### **Re. C.3.1 No illegal textiles**

ALL) Naturally, no criminal activities are allowed.

**Re. W-C.3.2–C.3.5 Reporting amount for re-use, recycling, energy recovery and disposal**

- fi) See comment W-C.2.4 above.
- se) There is a duty to report.

**Re. C.5.1 Only Buyers with relevant skills and qualifications**

- eu) Such a restriction would have to be proportional; see section 4 below, subsection 4.2 Restrictions on trade in goods.
- dk), fi), se) See eu) comment.

**Re. W-C.5.1 Only Buyers with relevant skills and qualifications**

- eu), dk), fi), se) See comment C.5.1 above.

**Re. C.6.4 Obligation to only sell-donate to other signatories complying with C.6.2-3**

- eu), dk), fi), no), se) Such a restriction would have to be proportional; see section 4 below, subsection 4.2 Restrictions on trade in goods.

**Re. W-C.6.2 Compliance with re-use objective**

- eu) When the waste is collected any waste holder would be obliged to observe the waste hierarchy, when making decisions on the subsequent waste treatment.
- dk) See eu) comment.
- fi) Municipal authorities must organize the municipal waste management services in accordance with the order of priority.

**Re. W-C.6.3 Compliance with re-use/recycling objective**

- eu), dk), fi) See comment W-C.6.2 above.

**Re. W-C.6.4 Obligation to only sell-donate to other signatories complying with C.6.2-3**

- eu), dk), fi), se) See comment C.6.4 above.
- fi) The municipality remains responsible for the end-disposal of municipal waste, including textile waste.
- se) The municipality remains responsible for the end-disposal of waste, including textile waste.

## 4. Legal Issues and Problems

In this section, focus is on legal challenges which the certification criteria may give rise to. The aim of the analysis is two-fold: First of all, the aim is to focus on whether the proposed certification criteria are consistent with the current legislation, in the EU and in the Nordic countries: Denmark, Finland, Norway and Sweden. Secondly, the aim is to clarify what a collector wishing to collect textile waste needs to do on a more practical level.

### 4.1 *The Distinction between Waste and Products*

From a legal perspective, consistency in the terminology with corresponding legal terms is important.

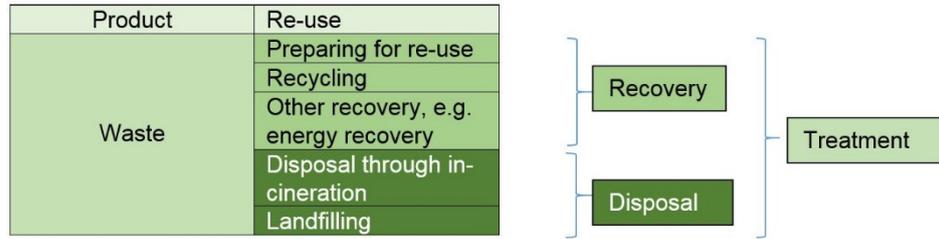
The definition of waste is decisive for whether an object is subject to the strict waste legislation. An object is considered either waste or non-waste and cannot be both in a legal context.

In the self-assessment checklists attached to the certification criteria, textile waste is defined as collected textiles that are sent to recycling, energy recover or disposal. In the legal terminology, waste is not defined only by its treatment but is based on whether the object has been subject to “discarding”, cf. Article 3(1) of the Framework Directive on Waste. Thus, if used textiles have been discarded, i.a. handed over to the municipal waste system with no direct intention of re-use, in that case the starting point would be that the used textiles would be classified as waste.

Correspondingly, used textiles intended solely for reuse that can be used again for the same purpose for which they were conceived would be classified as products. Re-use is in a legal context considered a preventive measure, which is taken before an object becomes waste. Thus, if an object can be re-used – i.a. it does not need further treatment to be used for the same purpose for which it was conceived – then it is not waste. The certification criteria apply the same understanding of the term “re-use”.

The term “treatment” in a legal sense, means recovery or disposal operations, including preparation prior to recovery or disposal, cf. Art. 3(14) Framework Directive on Waste. Accordingly, the term treatment is linked to the waste definition. When an object is considered waste, the distinction between the treatment operations recovery and disposal is vital, since waste for disposal is subject to much stricter regulation than waste for recovery.

Figure 1: Terminology of the Framework Directive on Waste: Product vs. Waste



In accordance with the legal understanding of recovery it also includes preparing for re-use. In the certification criteria, textile waste is defined on the basis of the three lowest options of the waste hierarchy: recycling, energy recover and disposal. Accordingly, it does not include preparing for re-use, which encompasses objects that have been discarded and which need checking, cleaning or repairing before they can be re-used. As a result, an object, which needs preparing for re-use, is a waste and thus subject to waste legislation.

It becomes legally challenging when a collection includes both used textiles aimed for re-use and textile waste. The collection of used textiles for direct re-use is not subject to waste legislation, since direct re-use is not a waste treatment operation. However, when the collection of textiles for re-use is linked up with the collection of textile waste, the collected textiles become subject to waste law, at any rate if the used textiles are mixed, e.g. thrown into the same textile collection container which is installed to collect both textiles for re-use and textile waste.

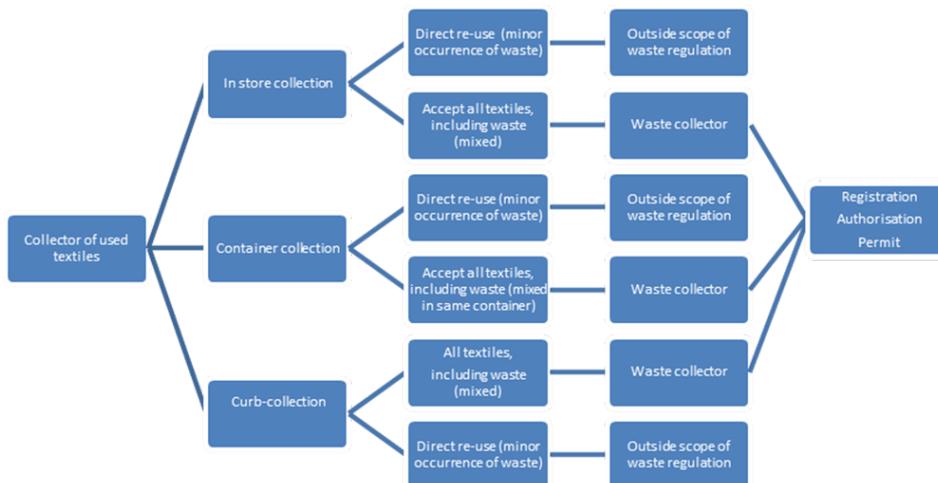
Figure 2: The “grey area” between products and waste

Used textiles: Waste vs. Products		
Intended solely for re-use and in condition where it can be used again for the same purpose	Discarded but in a condition where it can be used again for the same purpose	Discarded and need preparing before it can be used again for the same purpose
↓	↓	↓
Product	Probably waste - especially if mixed with waste - because there is no intention of re-use, and there is a need for preliminary sorting in order to identify textiles that can be re-used from waste	Waste

It is vital that the distinction between waste and non-waste is consistent with the legal terminology. Furthermore, it is important that this concurrently includes that there is a “grey area”, where it has to be decided on a case-by-case basis whether the used textiles are waste or not.

To avoid this “grey area”, it is recommended that the collection of used textiles for re-use and for recovery operations is kept separate and that the collection for re-use is clearly labelled “for re-use”, to emphasize that the collection is intended for re-use only.

Figure 3: To avoid the requirements of waste legislation it is pivotal that used textiles for re-use and for recovery operations are kept separate



#### 4.2 Restrictions on Trade in Goods

From a legal point of view, questions might arise as to whether some of the certification criteria might constitute a potential restriction on the free movement of goods under Art. 34–36 of the TFEU. The provisions prohibit all Member State measures that are “capable of hindering, directly or indirectly, actually or potentially” trade between Member States; cf. Case 8/74, *Dassonville*. Accordingly, if prior approval is required in order to acquire a certain kind of good this may constitute a measure with equivalent effect. Since the certification criteria have been developed by “public authorities” and the aim of the certification scheme i.a. is to help local authorities to identify responsible textiles collectors for public collection points, the scheme constitutes a Member State measure.

The certification criterion C5.1 on Export for sorting abroad stipulates that “Collected used textiles shall only be sold to companies with the requested competence regarding handling of these material flows”. The criterion applies to both “re-use only” and “re-use and textile waste”.

Moreover, the criterion 6.4 in the section on Environmental performance establishes that “Signatories comply with the criteria for environmental performance if they only re-use the textiles and send the remaining textiles to another signatory that fulfils the criteria C6.2 and C6.3”. The latter criteria lay down a target of minimum 50% re-use of collected textiles and a target of minimum 90% re-use or recycling (the targets have not yet been specified in the Criterion for “re-use only”). Criterion 6.4. applies to both “re-use only” and “re-use and textile waste”.

The primary aim of the criteria above is to ensure that textiles are treated in an environmentally responsible manner and that high environmental performance is achieved. In the assessment of the legality of the criteria, a distinction between the waste-related criteria and the product-related criteria is applied.

Regarding the waste-related criteria, these are covered by secondary EU-legislation, the Framework Directive on Waste. The question is whether they are compatible with the Directive, i.a. Art. 13 of the Framework Directive, which requires that Member States take the necessary measures to ensure that waste management is carried out without endangering human health and without harming the environment.

To reply to this question, some guidance is given by the preliminary judgment in the Case C-277/02, *EU-Wood-Trading*. In this case the Court of Justice held that, for the purpose of an objection to a shipment of waste, the competent authority of dispatch may, in assessing the effects on health and the environment at the destination, rely on criteria to which, to avoid such effects, the waste is subject in the State of dispatch, even where those criteria are stricter than those in force in the State of destination. It is, however, required that stricter national waste standards comply with the principle of proportionality, i.a. that they are suitable to attain the objectives pursued, and do not go beyond what is necessary to attain them (para 49).

The certification criteria C5.1. are vaguely formulated, reflect EU-based requirements and do undoubtedly not go beyond what would be considered proportional. The proportionality of criteria C6.4 are less certain. Basically, they require that in order to comply with the certification scheme, the textile waste can only be sent to another signatory. It can be contended that it is necessary to be a signatory, if the receiver in other ways documents that the receiver complies with the high environmental performance level. Based on this uncertainty with the consistency with EU law, it is suggested that the criteria C6.4 are broadened so that they also encompass receivers that are not signatories but who have implemented high environmental performance standards.

Regarding the product-related criteria, the question is whether they are compatible with the Treaty-provisions on the free movement of goods. For a national measure to be susceptible to justification under Art. 36 TFEU or as a "mandatory requirement" there should be no less trade-restrictive measures available to the Member State to achieve the same objective; cf. Case 104/75, *de Peijper* and Case 302/86, *Danish Bottle Case*. In other words, it is a requirement that the measure is proportionate. As mentioned above, it can be contended that it is necessary to be a signatory in order to achieve the desired objective of high environmental performance.

#### **4.3 Social Clauses or CSR Guidelines?**

The Nordic textile reuse and recycling commitment lays down ten so-called social benefit criteria. Certification with regard to this specific subset of criteria is optional and only for collectors that wish to claim social benefit status. However to the extent that collectors with social benefit status are being preferred by municipalities for the

granting of permits for collection of textile waste over commercial actors, this subset of social criteria may be taken to constitute binding criteria in practice.

A collector must fulfill at least six of these criteria in order to claim social benefit status:

1. Mainly reinvest profits in own or similar enterprises
2. Be non-profit
3. Have as main purpose to integrate people with significant difficulties getting employment and/or staying employed
4. Create partnership for co-workers through ownership, contracts or in other documented ways (e.g. membership)
5. Be structurally independent from the public sector
6. Be certified as having charity status
7. Mainly be operated by volunteers
8. Have clear and transparent economic accounting
9. Protect human equity and equal rights
10. Have as main purpose to improve living conditions for humans living under particularly difficult conditions

No formal distinction is made between charity collectors and commercial collectors, although the latter may in principle benefit from the flexibility from having to comply with only six criteria out of ten.

Even when taking this flexibility into account, however, the wording of the criteria would seem to exclude commercial entities to a substantial degree.

Thus few – if any – mainstream commercial collectors such as clothing stores would as a whole be able to comply with any of the criteria 2, 3, 6, 7 or 10. It would appear, however, that the designation of the criteria as social benefit criteria does in fact reflect the intention of having collectors comply with social benefit status, and not about social performance in general, cf. *ibid* p. 25.

From a legal point of view, questions might arise as to whether some of the social benefit criteria might constitute a potential restriction on the free movement of services under Article 56 of the Treaty of the European Union. However, as discussed in section 0, the collection of textile waste in accordance with The Nordic textile reuse and recycling commitment would appear to fall outside the scope of this application as a service of general interest being offered by the collectors without any economic consideration from the municipality.

The very same service may on the other hand constitute a concession within the meaning of the concessions directive. Provided that its economic value meets or exceeds the threshold value of 5.186,000 euro, a contract for the collection of textile waste in accordance with The Nordic textile reuse and recycling commitment must then only be awarded according to criteria which are to be linked to the subject-matter of the concession.

Some of the social benefit criteria contained in the Nordic textile reuse and recycling commitment may without doubt also be applied when awarding a contract under the concessions directive. This would include criteria 3 which is by and large reiterated in preamble 66 of the Directive according to which “such criteria or conditions might refer, amongst other things, to the employment of long-term job-seekers, the implementation of training measures for the unemployed or young persons in the course of the performance of the concession to be awarded”.

However, while the Directive in relation to this and other eligible social criteria only requires that they apply to the performance of the concession to be awarded, the social benefit criteria under the Nordic textile reuse and recycling commitment must – according to their wording – be fulfilled by the collector as a whole.

In conclusion therefore, it is recommended that the social benefit criteria be revised further in order to better accommodate for commercial collectors and in accordance with their original stated purpose. For instance, criteria 3 may be reworded to the effect that the integration of people with significant difficulties getting employment and/or staying employed be linked to the collection of textile waste per se rather than to the collector as a whole.

Aarhus, 9 February 2017

Pernille Aagaard Truelsen

Birgitte Egelund Olsen

Asger Janfelt

## 5. Legal Framework of involved Nordic Countries

The aim of this project is to assess and verify whether the criteria established by the Nordic Textile Commitment for reuse and recycling are in compliance with the national legislation in Norway, Finland, Sweden and Denmark. To accomplish this objective, legal experts from each country have provided an overview of the legal framework for collecting and managing textiles for re-use and textile waste.

### 5.1 Denmark

Legal Expert:

Birgitte Egelund Olsen, Professor, PhD, LL.M.  
Law Department, BSS, Aarhus University

#### Legal definition of used textiles

Re-use is "any operation by which products or components that are not waste are used again for the same purpose for which they were conceived", cf. Framework Directive on Waste Art. 3(13). Would there be any supplementary national regulation that is applied to define used textiles as a product for re-use under national law?

The term waste is defined as "any substance or object which the holder discards or intends or is required to discard", cf. Framework Directive on Waste Art. 3(1). Would there be any supplementary national regulation that is applied to define when used textiles are regarded as a waste under national law?

In Denmark, the Environmental Protection Act (Consolidated Act No 1189 of 27 September 2016) is the main act governing waste management. In addition, the Act comprises the legal basis of the majority of the Danish waste management regulations. The detailed regulation of waste management is provided in a number of statutory orders. The most general of the detailed statutory orders is the Statutory Order on Waste (Statutory Order No. 1309 of 18 December 2012, amended most recently by Statutory Order No 600 of 30 May 2016). Another general statutory order of relevance in relation to textile waste is the Statutory Order on the Waste Registry and the Waste Collector Permit (Statutory Order No. 1305 of 17 December 2012, amended most recently by Statutory Order No 1333 of 10 December 2014). It regulates the registry and approval of recycling facilities, facilities preparing waste for re-use and waste collectors. Of relevance is also the Statutory Order No. 1306 of 17 December 2012 on Waste Data and the Statutory Order No. 132 of 6 February 2014 on Import and Export of Waste. There is no specific regulation of the disposal of textile waste; hence, textile waste is disposed of in accordance with the general provisions on waste management.

The Statutory Order on Waste contains the key provisions on waste management and treatment by municipalities and private undertakings. It lays down the EU waste hierarchy in Danish law and clarifies key concepts such as the definitions of re-use, waste, recovery and disposal. Furthermore, it lays down the appropriate procedures and

establishes that the municipalities are the competent authorities with regard to waste management in practice. It holds the provisions on management of source separated commercial waste and hazardous commercial waste. Regarding certain waste types – such as WEEE, batteries etc. – take-back schemes have been established. It also contains the regulation of waste collection and the collection of products for re-use.

The definition of “re-use” in the EU Framework Directive on Waste is repeated in the Statutory Order on Waste in section 3 (30). The Statutory Order also repeats the Directive’s definition of “preparing for re-use” in section 3 (24). Re-use of products or components is in the Danish legal framework regarded as a waste prevention operation in accordance with the EU Waste Framework Directive art. 3(12). This is important when determining the relevant set of rules.

In the Danish legal framework, the Statutory Order on Waste does not cover waste prevention activities, which include the re-use of products or components. The Statutory Order covers waste management operations only and not waste prevention, cf. section 1 of the Statutory Order on Waste. Thus, when used textiles are disposed of with the purpose of reuse and they can be re-used directly, then they do not constitute waste. Accordingly, the used textiles intended solely for reuse are subject to the Environmental Protection Act etc. as products, but will not be subject to the Statutory Order on Waste. This is also reflected in the waste treatment hierarchy of section 6b of the Environmental Protection Act, which lists waste prevention as its key aim, while prevention is not part of the waste treatment hierarchy of section 12 of the Statutory Order on Waste; here the key aim is preparing for re-use. This distinction between waste prevention and waste management and their different legal bases was emphasized with the introduction of the amendment Act No. 1388 of 14 December 2010 to the Environmental Protection Act, which transposed important elements of the 2008 EU Framework Directive on Waste.

In section 2(1), the Statutory Order on Waste repeats the definition of “waste” in the Framework Directive on Waste. As a means of interpretation, Annex 2 of the Statutory Order on Waste contains a non-exhaustive list of the most common non-hazardous and hazardous waste types. The list implements the European Waste Catalogue, cf. Commission Decision of 18 December 2014 amending Decision 2000/532/EC. Regarding clothing or textile waste and waste from textile processes the list, among others, includes waste from the textile industry, waste from inorganic and organic chemical processes, as well as, household clothing or textile waste.

According to section 4(1), the municipal council decides whether a substance or object is waste. The decision is definitive and is not subject to administrative appeal, but it can be taken to court, cf. section 93 of the Statutory Order on Waste. However, this rarely happens and when it does the case is most often concerned with whether a specific waste related tax scheme applies or not. There are no supplementary national rules defining when used textiles are regarded as a product or waste respectively. Decisive for whether it is a waste or not is the purpose of the disposal of the used textile and its condition.

If an object or substance is regarded as waste, subsequently the municipal council will have to resolve how the waste should be classified. The Danish waste legislation

reflects the general distinction between waste for disposal and waste for recovery, including the distinction between the different subcategories of recovery: preparing for re-use, recycling and other recovery, including energy recovery.

Based on the decision of the European Commission of 18 November 2011 establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of the Waste Framework Directive, the Danish Statutory Order on Waste introduces a second distinction within the recovery operations, namely material recovery. According to the European Commission's decision, "material recovery" means any recovery operation, excluding energy recovery and the reprocessing into materials, which are to be used as fuel, cf. Article 1(5). Thus, the Danish Statutory Order on Waste distinguishes between on the one hand material recovery, which encompasses preparing for re-use, recycling and other recovery operations and on the other hand energy recovery and the reprocessing into materials which are to be used as fuel. The distinction is crucial and decisive for which waste legislation applies, since preparing for re-use and recycling will eventually lead to end-products which are not regarded as waste, whereas operations labelled as material recovery will remain waste and subject to the waste legislation. Furthermore, it is decisive for complying with the re-use and recycling targets laid down in Article 11(2) of the Waste Framework Directive.

According to section 4(2) of the Statutory Order on Waste, the municipal council decides whether the waste in question is to be classified as hazardous waste, packaging waste, waste prepared for re-use, recycling or other material recovery, waste suitable for waste incineration or waste for disposal. Like the waste decision, the classification decision is not subject to administrative appeal. The municipalities are also responsible for classifying commercial waste. If commercial waste is classified as source separated commercial waste for material recovery, then it is no longer included in the municipal waste management, and the commercial waste producer is responsible for the waste handling, cf. section 68 of the Statutory Order on Waste. This does not entail that the commercial waste producer is not subject to detailed regulation. The commercial waste producer is required to hand over the produced commercial waste for material recovery to a treatment facility or collector listed in the national Waste Registry, take it to a municipal waste depot or use a private take-back scheme if such a scheme is established, cf. section 68(1). Furthermore, he can export the waste in accordance with the legal framework regulating export of waste, cf. section 68(2).

As mentioned above, there is no specific regulation of textiles in the general legislation on waste. The national waste regulation is accommodated to local conditions in the local municipal waste regulations, which are legally binding within the jurisdiction of the municipality in question. In each municipality two local waste regulations have been adopted; one for household waste and another for commercial waste. Looking into the local waste regulations for the four main cities in Denmark (Copenhagen, Aarhus, Odense and Aalborg) there can be found no local regulation of textiles for re-use or textiles waste with the exception of rain gear and wellington boots which are considered a PVC waste (in Aarhus and Odense only), and as a result waste producers are obliged to keep such PVC waste separated from other wastes and hand it over for

specific treatment. This obligation applies to both households and commercial waste producers.

Furthermore, there are no guidelines to be found – neither on a national nor on a local level – which could contribute further to the definition and/or categorization of used textiles as a product for re-use or as a waste subject to waste treatment. Thus, in practice the current definition and categorization takes place on a case-by-case basis – and based on the general legal framework for waste.

#### **The competent authority**

Who has under the national legal framework the competence to determine whether an item is waste or not, including the classification of waste as eligible for reuse (second hand sale), recycling, energy recovery or final disposal (landfilling/incineration)?

The term waste is defined in section 2(1) of the Statutory Order on Waste as “any substance or object which the holder discards or intends or is required to discard”. The provision replicates Article Art. 3(1) of the Framework Directive on Waste. It entails a subjective element, thus in the first instance it is the holder who decides whether he or she will discard the object or substance. The final decision of whether a substance or object is considered waste is made by the municipal council in accordance with section 4(1) of the Statutory Order on Waste. The decision is definitive and is not subject to administrative appeal, but can be taken to court, cf. section 93 of the Statutory Order on Waste. The decision will have to comply with EU law, including the case law of the European Court of Justice.

If an object or substance is regarded as waste, the municipal council will have to resolve how the waste should be classified. Thus, it is the municipality, which decides in consideration of the waste hierarchy whether textiles regarded as waste should be prepared for re-use, reprocessed or used for energy recovery. Like the waste decision, the classification decision is not subject to administrative appeal.

The municipalities are also responsible for classifying commercial waste. If commercial waste is classified as source separated commercial waste for material recovery then it is no longer included in the municipal waste management, and the commercial waste producer is responsible for the waste handling, cf. section 68 of the Statutory Order on Waste. The commercial waste producer is required to hand over the produced commercial waste for material recovery to a treatment facility or collector listed in the national Waste Registry, take it to a municipal waste depot or use a private take-back scheme if such a scheme is established, cf. section 68(1). Furthermore, he can export the waste in accordance with the legal framework regulating export of waste, cf. section 68(2). See also further below on the Waste Registry, the obligation of waste collectors to obtain a permit and how export of waste is regulated.

The re-use of textiles is not considered waste management, and is therefore not subject to the waste legislation. Used textiles intended solely for reuse and which can be used again for the same purpose for which they were conceived are considered products.

Outside the scope of waste law are also by-products. As a result, textile by-products resulting from a production process may be regarded as not being waste. In accordance with Article 5 of the Framework Directive on Waste, section 2(2) of the Statutory Order on Waste stipulates that a substance or object, resulting from a production process, the primary aim of which is not the production of that item, is not waste if the further use of the item is certain; it can be used directly without any further processing other than normal industrial practice; it is as an integral part of a production process and provided that further use is lawful.

Under EU law, waste can also cease to be a waste. If the European Commission has not adopted EU-wide end-of-waste criteria, the Directive leaves room for the Member States to decide case-by-case whether certain waste has ceased to be waste taking into account the applicable EU case law and provided that they notify the European Commission. The EU provision on end-of-waste status is reproduced in section 4 (4) and (6) of the Statutory Order on Waste. It stipulates that the municipal council may decide that an object or substance is no longer waste if it has been subject to a recovery operation; it is commonly used for specific purposes; if a market or demand exist for such an item; if it fulfils the technical requirements for the specific purposes and meets the existing requirements and if the use will not entail adverse impacts to the environment or human health. The municipal council will have to notify the Danish Environmental Protection Agency of any local end-of-waste criteria. Specific Danish end-of-waste criteria for textiles have not been developed.

Likewise, there are no EU end-of-waste criteria for textiles and they do not seem to be in the pipeline, however according to the Framework Directive of Waste specific criteria should be considered among others for textiles, cf. Article 6(2).

#### **Disposing of used textiles**

Describe how the disposal of used textiles is regulated? Who is responsible? Is there under the current regulation a distinction between the responsibilities in relation to commercial disposal and the disposal of household wastes?

Used textiles that can be re-used directly for the same purpose for which they were conceived do not constitute waste; consequently, they fall outside the scope of waste legislation. Accordingly, used textiles intended solely for reuse can be sold or donated like any other product.

Under Danish law the waste holder – the natural or legal person who is in possession of the waste – is responsible for not causing adverse environmental and health impacts, cf. section 43 of the Environmental Protection Act. A violation of the provision has led to fines in a number of cases (e.g. MAD 2013 156 V, MAD 2014 405 Ø), but none of them concern the handling of textile waste.

In relation to the disposal of waste, the key distinction in the Danish legal framework for waste is the distinction between waste coming from households and commercial waste.

As the main rule, the municipal councils are responsible for the management of all waste produced within their jurisdiction, cf. section 45(1) of the Environmental Protection Act. For this purpose each municipality establishes local waste regulations, one for households and one for commercial waste. The local waste regulation may establish collection schemes or instruction schemes cf. sections 21 and 22 of the Statutory Order on Waste. Regarding waste, which is not covered by a local waste regulation, the municipalities are obliged to give specific instructions as to where the waste can be handed in for treatment.

Basically, it is the municipality itself that decides whether it in relation to a certain waste type wants to establish a collection scheme or an instruction scheme, cf. section 24(4) of the Statutory Order on Waste. However, in a number of cases, the municipalities are by law required to establish collections schemes, cf. chapter 7 of the Statutory Order on Waste. For households this is the case for waste originating from the consumption of households, so-called household waste, which may also cover textiles mixed with the other waste types. For households, separate collection schemes will have to be established for paper, cardboard and glass if there is a certain population density in the area; i.a. 1000 citizens or 2000 dwellings. The obligation to establish separate collection schemes also applies to a number of other waste types such as metals, plastics, hazardous waste etc. Currently there is no obligation to establish a separate waste scheme for used textiles.

Municipal collection schemes are also established for commercial waste with the exception of commercial waste classified as source separated commercial waste for material recovery. There is an obligation to establish separate collection schemes for commercial waste in relation to PVC waste and impregnated wood. There is no obligation to establish separate collection specifically in relation to textile waste.

A waste collection scheme entails that the municipality is responsible for the collection, transport and treatment of the waste. The collection takes place either from the actual household and undertaking (curbside collection) or from a recycling depot (container collection). By law the municipality is secured an exclusive right to all waste subject to a collection scheme; cf. section 45(3) of the Environmental Protection Act. Correspondingly, when a collection scheme is established both households and undertakings are obliged to use them, cf. section 45(2) para. 4 in the Environmental Protection Act. The collection activity does not have to be carried out by the municipality itself; the service can be provided by an inter-municipal company jointly owned by two or more municipalities or it can be outsourced. However, the municipality remains responsible for fulfilling the obligation laid down in law.

Waste instruction schemes are mostly aimed at enterprises. An instruction scheme obliges the municipalities to ensure sufficient treatment facilities and that they in their instructions determine how and where a certain waste type – not covered by a waste collection scheme – should be delivered. Under an instruction scheme, the waste producer or holder is responsible for the collection, transport and treatment of the waste; the municipality is only obliged to give instructions and to ensure that there is sufficient capacity to handle the waste. Both households and undertakings are obliged to act in accordance with the instructions. Looking into the local waste regulations for

the four main cities in Denmark (Copenhagen, Aarhus, Odense and Aalborg), no local instruction schemes specifically targeting textile waste can be found.

There are a number of exemptions from the obligation to use the municipal waste schemes. First of all commercial waste classified as source separated commercial waste for material recovery is as mentioned earlier exempted from the municipal waste handling. Thus, the municipalities are not allowed to establish schemes that include commercial waste for material recovery. Undertakings may, however, to a limited extent and for separate payment, deliver waste at municipal waste deposits; cf. section 40 of the Statutory Order on Waste.

Also exempted from the obligation to use the municipal waste schemes are undertakings that choose to export waste determined for energy recovery or – in relation to hazardous commercial waste – if an undertaking can substantiate that it is able to manage its own hazardous waste, cf. sections 47(2) and 48 of the Statutory Order on Waste. Finally, both households and undertakings are exempted from the municipal waste schemes if their waste is handed over to a take-back scheme.

Regarding used textiles, there is nothing under the current legislation, which prohibits municipalities from establishing separate collection schemes for textiles, however, currently they are not obliged to do so. Since used textiles, which are discarded by households, are part of the household waste fraction, the municipalities both have an obligation and an exclusive right to collect the waste. Thus, no one else can collect the textile waste from the households unless this task has been outsourced to them. Regarding textile waste from undertakings, the waste is exempted from the municipal schemes if the textile waste is destined for material recovery. This is also the case if it is exported for energy recovery. Thus, the municipalities only have an exclusive right to handling commercial textile waste if it is classified as waste for energy recovery or final disposal.

#### **The collection of textiles**

How is the collection of used textiles regulated? If there is no specific regulation of the collection of textiles then how is used clothes disposed of in practice and according to which criteria if any (try to give a general view – we recognize that this may be regulated differently in different cities, municipalities etc.)? Is there a regulatory distinction between commercial textiles and households?

For private individuals, used textiles can be dispensed with in two ways; as a product intended solely for reuse – and in this case, the holder can do as he or she pleases – or as a waste.

If dispensed as a waste, it will most often be discarded as part of the household waste – intermixed either with the household waste or separately as part of a bulky waste collection scheme. In both cases, it will be picked up at the household (curbside collection).

The municipalities are not required by law to have a separate collection of used textiles intended solely for reuse, but in general, all municipal waste deposits have containers specifically for this purpose. The collection containers can be installed either

by the municipality itself or by a charity or jointly by charities as agreed with the municipality. Depending on the municipality, the containers can also be located at local centers, e.g. next to the local grocer, in town squares etc. There is no general legal obligation to separate used textiles from other household wastes, except when delivered in used textile collection containers intended solely for reuse.

Besides the collection containers, used textiles for reuse are donated to second hand shops or in other ways donated or sold. These activities are not considered waste activities and they are not subject to a specific regulatory scheme. In many cases humanitarian organizations and private collectors are also involved in the collection of the used textiles or – when collected by the municipalities – the used textiles intended for re-use are subsequently passed on to charities (e.g. the Municipality of Aarhus, Sorting list for the waste deposits) or in other cases sold to charities.

In general, with the collection of used textiles for re-use comes unwanted waste/textile waste as well. The humanitarian organizations are required to sort out the waste and deliver this to either an approved treatment facility listed in the Waste Registry or it can be discharged at the municipal waste deposits. A charity is by law regarded as an undertaking, but is exempted from paying general waste charges if they do not use the municipal waste deposits, cf. section 60 and Annex 8 of the Statutory Order on Waste. However, when they discard their textile waste etc. at waste treatment facilities or the municipal waste deposits, they are obliged to pay for the further treatment; cf. sections 40 and 57–58 of the Statutory Order on Waste.

Regarding undertakings, used textiles can likewise be dispensed with in two ways; as a product if ready for re-use or considered a by-product – thus falling outside the scope of waste law – or as a waste. If the discarded textiles can be classified as source separated commercial waste for material recovery, then they will be exempted from the municipal waste handling. This entails that they can be delivered either at an approved treatment facility listed in the Waste Registry or they can be discharged at the municipal waste deposits or they can be exported. In relation to textile waste, which is not classified as waste for material recovery, the municipalities are responsible for the treatment and have an exclusive right to handle the waste, if not exported for energy recovery.

#### **The collector**

How is the collector regulated when the used textiles are for re-use (second hand sale)? How is the collector regulated when the used textiles are regarded as waste? Is there a distinction between commercial textiles and the textiles deriving from households? Would there be any registration or permitting requirements? Or educational requirements targeting the waste collector? Would there be any issues in relation to competition law, including public procurement requirements?

The collection of used textiles for direct re-use is not subject to waste legislation, since direct re-use is not a waste treatment operation. Thus, when used textiles intended solely for re-use are collected from containers specifically installed for this purpose either at municipal waste deposits or from containers located at local centers, this activity is not

a waste operation and it is of no relevance whether charities or the municipality itself carries out the activity.

However, with the collection of used textiles for direct re-use comes also textile waste or other wastes, which will have to be sorted out and separated into waste prepared for re-use or recycling or for energy recovery. This waste will be subject to waste law. It is decisive for the regulation of the textile waste (including other wastes) whether the waste holder is the municipality or a charity and it is decisive how the waste is classified, i.a. for recycling or energy recovery.

A collection of used textiles, which are not in a state where they can be re-used for the same purpose for which they were conceived, would be considered a waste collection and the collector will be a waste collector. If the waste comes from households, the collector will have to be authorized by the municipality, since the management of household waste is an exclusive right of the municipality. If the waste comes from undertakings and can be classified as source separated commercial waste for material recovery, then any collector, including charitable organizations, will have to be approved by the Environmental Protection Agency and be listed in the Waste Registry, cf. chapter 5 of the Statutory Order on the Waste Registry and the Waste Collector Permit. An approval presupposes that at least one person with managerial responsibilities has been granted a collector's certificate, cf. the Statutory Order on the collector's certificate. A permit is temporary and like the collector's certificate, it lasts for a period of five years.

#### **Obligations when the textiles are collected**

Would there be any requirements to the sorting and temporary storing of textiles for re-use or textiles regarded as a waste?

If the sorting and storing only relates to textiles for direct re-use, then waste legislation does not apply and there would not be any specific requirements to the sorting and temporary storage of the textiles. However, there are general requirements concerning working environment etc. that would apply.

Regarding textile waste, the definition of "collection" in section 3(33) of the Statutory Order on the Waste, which repeats Article 3 (10) of the Framework Directive on Waste, also includes the preliminary sorting and storage of the waste. Thus, if the collector meets the requirements for waste collection, then he will also be eligible to conduct preliminary sorting and storage.

When the waste is collected, any waste holder would be obliged to observe the waste hierarchy, when making decisions on the subsequent waste treatment. Furthermore, any waste holder is responsible for not causing adverse environmental and health impacts, cf. section 43 of the Environmental Protection Act. Regarding waste handling, which has been outsourced by a municipality, the municipality is still responsible for ensuring an environmentally sound etc. management of the waste.

#### **Take-back schemes**

Would it be possible under the current regulation to establish or have a producer responsibility scheme?

If there is no system for textile waste, would there then be a system for other waste types, which could be applicable to textiles?

In Denmark, there is a distinction between mandatory public take-back schemes and voluntary private schemes. The mandatory schemes have their legal basis in the Environmental Protection Act, sections 9h–9å. Currently, there are no take-back schemes for used textile or textile waste.

Section 9h of the Environmental Protection Act contains a general legal basis for establishing take-back schemes – or an extended producer responsibility measure – with the aim to resolve waste problems. The provision requires that the producer or importer take back the product in order to reuse or recycle the product or treat it separately. The producer etc. is obliged to cover all expenses. Currently, compulsory take-back schemes are established for WEEE, batteries and scrapped cars; all schemes deriving from EU obligations. A mandatory public take back scheme for used textiles it is not in the pipeline.

In 2014, a legal basis for voluntary private take back schemes was adopted in chapter 9a of the Statutory Order on Waste. Accordingly, producers or importers may initiate a take-back scheme for waste products and/or packaging waste. A private take-back scheme will have to be notified to the Environmental Protection Agency. Among other things, the notification should include a lifecycle screening – and it is required to ensure that at least 80 per cent of the waste covered by the scheme is subject to a recovery operation. So far only Nespresso coffee capsules have applied for a private take-back scheme. Two Nespresso take-back schemes have been established; one for households and one for businesses.

#### **Traceability**

Would there under the current regulation be an existing system for tracing textile waste from collection to the final handling of the waste? Would this also include used textiles destined for second hand sale? If there is no system for textile waste, would there then be a system for other waste types which could be applicable?

The traceability of textile waste is achieved through reporting duties, see question below. However, the reporting requirements only provide overall information and do not guarantee that individual textile waste fractions can be traced. There would be no requirements to ensure traceability of used textiles destined for second hand sale.

The traceability of used textiles for re-use rests on contractual arrangements or private procedures set up, e.g. as part of a CSR reporting scheme by various actors. Regarding the obligation to ensure traceability by contract, such a contract may stipulate a requirement to disclose the stream and the final use of the textiles. Such a system can

be based on CSR and CSR-inspired guidelines, see for example Reno Djurs' conditions and specifications for receiving clothes and textiles for second hand sale.

#### **Reporting on textile waste quantities and types**

Who is responsible and for what?

A reporting requirement is only applicable to waste. There would be no obligation to report if the used textiles are directly re-used for second hand sale, as they would not be subject to waste legislation.

If the used textiles are considered waste, then certain waste reporting requirements apply. Section 46a of the Environmental Protection Act contains the legal basis for the Statutory Order on Waste Data. The detailed regulation of the waste data system is laid down in the Statutory Order. The Environmental Protection Agency is responsible for running the waste data system, while collectors, treatment facilities, waste producers who export their waste, importers and exporters of waste are responsible for reporting to the waste data system. The object of reporting is collected waste, waste received for treatment, imported and exported waste and waste for disposal. For example, if the management of textiles subject to a municipal waste scheme by contract is assigned to a charitable organization or private collector, the collector is required by law to compile information on the collected quantities of clothes and textiles and to report this to the Waste Data System. The reporting is based on the European Waste Catalog Code – the EWC-codes. There are specific codes for clothes, textiles etc., which provide information specifically on textile waste, but only rather general information.

#### **Import or export of used textiles regarded as waste**

How is import or export regulated in national legislation supplementing the EU Regulation on transboundary shipments of waste? When is textile waste considered a waste belonging to the green list or waste subject to notification?

The import and export of textile waste is regulated on an EU level in the Basel Regulation, Regulation No. 1013/2006/EC. The Basel Regulation distinguishes between shipments of waste between the Member States and shipments into and out of the EU. Textile waste is considered waste on the green list, thus it is not subject to a prior informed consent procedure – only general information requirements.

The national provisions to complete the Basel Regulation are found in the Statutory Order on Import and Export of Waste. The competent authority in Denmark is the Environmental Protection Agency and thus the authority to be notified of a waste shipment. There is a fee for the processing of a notification. In addition, the Environmental Protection Agency may raise objections against a shipment.

There have in Denmark been a number of cases which have been brought to court because of a strict interpretation of when a load of green-listed waste is “clean” or not and therefore treated as a shipment on the amber list subject to notification. See link to case law <http://mst.dk/virksomhed-myndighed/affald/import-og-eksport-af-affald/ulovlig-import-og-eksport-af-affald/>.

**Used textiles trade (when destined for second hand sale)**

How is the commercial exchange (import/export) of used textiles and the non-commercial exchange (charity) of used textiles regulated?

Trade within the EU is subject to VAT, but not customs. On the contrary, when used textiles are exported to countries outside the EU, exporters may have to pay customs. In addition, if an export is to a third country, the exporter will have to register.

The attachment # 1 to this template “Criteria for collectors seeking certification for collection of textiles aimed for reuse and textile waste” is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?

It becomes legally challenging when a collection includes both used textiles aimed for re-use and textile waste, since the waste legislation is highly complex and presupposes a number of authorizations and permits as described above. The collection of waste from households is the exclusive competence of the municipality, but the collection task may be outsourced.

The collection of used textiles for direct re-use is not subject to waste legislation, since direct re-use is not a waste treatment operation. However, with the collection of textile waste, the collector becomes subject to waste law. A collection of used textiles, which is not in a state where it can be re-used for the same purpose for which it was conceived would be considered a waste collection and the collector will be a waste collector. If the waste comes from households, the collector will have to be authorized by the municipality, since the management of household waste is an exclusive right of the municipality. If the waste comes from undertakings and can be classified as source separated commercial waste for material recovery, then any collector, including charitable organizations, will have to be approved by the Environmental Protection Agency and be listed in the Waste Registry, cf. chapter 5 of the Statutory Order on the Waste Registry and the Waste Collector Permit. An approval presupposes that at least one person with managerial responsibilities has been granted a collector’s certificate, cf. the Statutory Order on the collector’s certificate. A permit is temporary and like the collector’s certificate it lasts for a period of five years.

Below the lawfulness of the certification system is considered:

#### **Ad 1. Information, transparency and reporting**

Traceability and information on weight etc. is not required by law unless the used textiles are regarded as waste. Then it would be partly a requirement under the current legislation (see above), however not to the extent and detail stipulated in the proposed certification scheme. The requirements laid down in the certification scheme would not be inconsistent with Danish law.

#### **Ad 2. Collection**

The requirements laid down in the certification scheme would not be inconsistent with Danish law.

However, providing that the used textiles for re-use and for waste treatment are placed in the same containers, the entire load will most probably be considered waste. The used textiles would in this case need checking and in some cases cleaning or repairing before they can be re-used, i.e. they need preparing for re-use, which is considered a waste operation. Thus, it would be important that separate collection containers for used textiles intended solely for re-use are installed and labelled accordingly.

An additional requirement to criterion 2.7. could be that the collector should not only ensure that the containers are emptied frequently, but it might also be relevant to require that the need for emptying the containers is monitored, i.e. that a monitoring system is established. An emptying with a specific time interval, which may be frequent, may not take into account for example overloading in connection with certain weekends, holidays or vacation periods.

#### **Ad 3. Sorting**

The requirements laid down in the certification scheme would not be inconsistent with Danish law.

See also comments below under Ad 5.

#### **Ad 4. Second-hand sale**

The requirements laid down in the certification scheme would not be inconsistent with Danish law.

#### **Ad 5. Export for sorting abroad**

The requirement laid down in the certification scheme would not be inconsistent with Danish law.

However, there may be a discrepancy or a legal challenge in relation to waste law. The criteria 3 and 5 as a whole presupposes that collected used textiles – comprising both textile waste and textiles that can be re-used – would be exported without any previous sorting. In such cases the load would be considered waste. Presumably, it would be classified as green-listed waste. However, the Danish waste authorities have applied a rather strict interpretation of when a load of green-listed waste is a “clean” load (comprising textiles only) or not. Thus, it may be considered to include

requirements of primary sorting before export in order to avoid challenges with waste law.

#### **Ad 6. Environmental performance**

The requirements laid down in the certifications scheme would not be inconsistent with Danish law.

The attachment # 2 to this template "Criteria for collectors seeking certification for collection of textiles aimed for reuse only is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?"

When the collection of used textiles intended solely for reuse takes place at municipal waste deposits or at local centers in containers installed specifically for this purpose, the collection containers can either be installed by the municipality itself or by a charity or jointly by charities as agreed with the municipality. When a collection container is installed on public land, the collector will need an authorization from the municipality. When collected by the municipalities, the used textiles intended for re-use are in many cases subsequently passed on to charities.

In all cases, except when the collection container is installed on private land in agreement with the owner, the municipality would have to select a charity etc. of collaboration. The process of selection of one or more collaborators differs from municipality to municipality. In some municipalities the decision is left to an association of charities etc. established in the municipality with the sole purpose of finding a fair and transparent way to share the used textiles collected for re-use and the associated tasks such as unloading containers and transporting the used textiles.

In other municipalities the selection process would entail a bidding process where the authorization to collect the used textiles would be reserved to the winner(s). The authorization would require a contract stipulating a number of conditions, which will have to be fulfilled. An example of conditions and specifications for a bidding process and the subsequent contract formation is Reno Djurs' conditions and specifications from August 2015. Reno Djurs is a company jointly owned by two municipalities.

Reno Djurs' conditions and specifications provide an authorization to collect clothing and textiles, including clothes, shoes, linen, towels, curtains, pillows, blankets etc. It is emphasized that errors of sorting must be expected, thus charitable organizations must anticipate textiles or items that would be considered waste, and which it will have to manage as waste. The collector is responsible for the transport, sorting and treatment of the potential textile waste (and other wastes) in accordance with the waste hierarchy. It is specified that the collector among other things will have to set up new collection containers at predetermined locations and that these must be unloaded by the collector whenever needed.

The collector would also be obliged to provide information, documentation on the quantities collected, how much they weigh, and the treatment operations applied, including the treatment facility chosen for each waste fraction. This includes information on where the textiles for re-use and the waste streams end; i.e. the final end-use. The collector must comply with all environmental and working environment requirements and ensure that such requirements are observed also if the waste is exported. In addition, the collector is obliged to report on how issues of CSR are observed in the subsequent treatment of the textiles, i.a. that human rights are observed, that employees are treated fairly and ethically, that environmental and climate management practices are employed etc. Reno Djurs' conditions and specifications refer to and reproduce the ten UN Global Compact principles; however, they do not contain actual social clauses. In Reno Djurs' case, the contract would be a running contract, irrevocable for a year, but subsequently with the option to terminate the contract at 6 months' notice. Moreover, the obligations laid down in the contract are not transferable from the initial collector to others.

Below the lawfulness of the certification system is considered:

#### **Ad 1. Information, transparency and reporting**

Traceability and information on weight etc. is not required by law unless the used textiles are regarded as waste. Then it would be partly a requirement under the current legislation (see above), however, not to the extent and detail stipulated in the proposed certification scheme. The requirements laid down in the certification scheme would not be inconsistent with Danish law.

#### **Ad 2. Collection**

The requirements laid down in the certification scheme would not be inconsistent with Danish law. An additional requirement to criterion 2.7. could be that the collector should not only ensure that the containers are emptied frequently, but it might also be relevant to require that the need for emptying the containers is monitored, i.a. a monitoring system. An emptying with a specific time interval, which may be frequent, may not take into account for example overloading in connection with certain weekends, holidays or vacation periods.

#### **Ad 3. Sorting**

The requirements laid down in the certification scheme would not be inconsistent with Danish law.

However, since these criteria are focused on the collection for re-use only and consequently not considered a waste collection, then it would be relevant to distinguish between used textiles for re-use (which are not considered waste) and used textiles which need further treatment, i.a. "preparing for re-use", which are considered waste. Besides the items collected for re-use which are in a condition to be re-used (which supposedly would comprise the vast majority of the items collected), other items would be waste and will have to be discarded as waste in compliance with waste law.

See also comments below under Ad 5.

#### Ad 4. Second-hand sale

The requirements laid down in the certification scheme would not be inconsistent with Danish law.

#### Ad 5. Export for sorting abroad

The requirement laid down in the certification scheme would not be inconsistent with Danish law.

However, there may be a discrepancy or a legal challenge in relation to waste law. The criteria 3 and 5 as a whole presuppose that used textiles collected for re-use may be exported without any previous sorting. In such cases the load may be considered waste if it comprises items that cannot be re-used directly. The Danish waste authorities have applied a rather strict interpretation of when a load of green-listed waste is "clean" or not. Accordingly, if a load of used clothes for re-use (which is not waste) would comprise an amount of textiles and other items, which cannot be re-used but will have to be sent to recycling, incineration etc. as indicated in criteria 3, then the load as a whole would most likely be considered a waste transport. Thus, it may be considered to include requirements of primary sorting before export in order to avoid challenges with waste law.

#### Ad 6. Environmental performance

The requirements laid down in the certification scheme would not be inconsistent with Danish law.

Please list relevant literature, including reports, articles etc., which describes the legal issues, dealt with above. Please include a link where possible.

- Marie Odgaard: "Afgifter og affaldsregulering", DJØF, 2011
- Worcester Polytechnic Institute: "Textiles: From Waste To Resources In Denmark" (Carbone et al), 29 April 2016, <http://danskaffaldsforening.dk/publikationer/rapport/textiles-from-waste-to-resources-in-denmark>
- AffaldPlus: "Lad frivillige organisationer slippe for at betale på genbrugspladsen", Pressemeldelse, 25. januar 2016, cf. [http://www.affaldplus.dk/sites/default/files/mediarkiv/Dokumenter/Hele\\_AffaldPlus/Presse/2016/presse\\_20160125\\_foreningerpaagenbrugspladsen.pdf](http://www.affaldplus.dk/sites/default/files/mediarkiv/Dokumenter/Hele_AffaldPlus/Presse/2016/presse_20160125_foreningerpaagenbrugspladsen.pdf)

- Reno Djurs: "Afsætning af tøj og tekstiler. Betingelser og specifikationer", august 2015, cf.  
<http://www.renodjurs.dk/sites/default/files/T%C3%B8j%20og%20tekstiler%20Betingelser%20juli%202015.pdf>

Please list the relevant legislation in full including an active link to the legal document in question. Please indicate in brackets and using key words what the listed legal document regulates.

- Consolidated Act No 1189 of 27 September 2016 on the Protection of the Environment (Miljøbeskyttelsesloven)
- Statutory Order No. 1309 of 18 December 2012 on Waste (Affaldsbekendtgørelsen)
- Statutory Order No. 1305 of 17 December 2012 on the Waste Registry and the Waste Collector Permit (Affaldsregisterbekendtgørelsen)
- Statutory Order No. 1306 of 17 December 2012 on Waste Data (Bekendtgørelse om Affaldsdatasystemet)
- Statutory Order No. 132 of 6 February 2014 on Import and Export of Waste (Import-eksportbekendtgørelsen)

## 5.2 Finland

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### Legal definition of used textiles

The term waste is defined as “any substance or object which the holder discards or intends or is required to discard”, cf. Framework Directive on Waste Art. 3(1). Would there be any supplementary national regulation that is applied to define when used textiles are regarded as a waste under national law?

Re-use is “any operation by which products or components that are not waste are used again for the same purpose for which they were conceived”, cf. Framework Directive on Waste Art. 3(13). Would there be any supplementary national regulation that is applied to define used textiles as a product for re-use under national law?

Textile waste falls under the scope of the general Waste Act 646/2011, hereinafter “Waste Act”, which regulates waste, waste management and littering as well as products and activities generating waste in Finland (section 2(1–2)). Section 5(1) of the same Act sets out the provisions for the classification of waste and defines “waste” as “any substance or object which the holder discards, intends to discard or is required to discard” in accordance with the Framework Directive on Waste. The section should be interpreted in connection with a non-exhaustive list of the most common non-hazardous and hazardous waste types listed in appendix 4 of the Government Decree on Waste 179/2012, hereinafter “Waste Decree”. With respect to textile waste and waste from textile processes, the list, among others, includes waste from the textile industry, waste from inorganic and organic chemical processes as well as household textile waste and similar textile waste from commercial, industrial and institutional activities (annex 4 of the Waste Decree).

In Finland, there is no supplementary national regulation that defines used textiles as a product for re-use under national law. Section 6(1) part 12 of the Waste Act defines “re-use” as “re-using the product, or a component thereof, for the purpose for which it was originally conceived.”

### Further comments:

- *General background on the Waste Act:*  
The Waste Act 646/2011 came into force 1 May 2012 repealing the former Waste Act of 1072/1993, and implementing the requirements of the Framework Directive on Waste 2008/98/EY in the current national waste legislation. The new Waste Act was also revised to comply with the Constitution of Finland 731/1999. At the core of the reform was the implementation of the order of priority into the domestic legislation for the purposes of steering future waste management activities in Finland. However, the current Waste Act also clarified obligations between

different actors, increased the efficiency of authority supervision as well as unified national terminology to correspond with the terminology used in the Framework Directive on Waste. The Act's scope of application, general principles and obligations remained somewhat the same in comparison to the previous Act (HE 199/2010).

#### **The competent authority**

Who has under the national legal framework the competence to determine whether an item is waste or not, including the classification of waste as eligible for reuse (second hand sale), recycling, energy recovery or final disposal (landfilling/incineration)?

As a starting point the waste holder defines whether the product at hand constitutes waste or not, and this classification constitutes a starting point in the work of the authorities (Memorandum on the Application of the Waste Act, 2014).

Section 5(4)–(5) of the Waste Act authorizes the Finnish Government to implement criteria set out at the EU level to further supplement the end of waste criteria for certain types of waste, including textile waste (HE 199/2010).

Section 8 of the Waste Act, concerning the general obligation to comply with the order of priority, authorizes the Government to enact decrees that further specify the operators' obligations with respect to implementing the order of priority. Indeed, "further provisions may be given by government decree on the quantitative targets and obligations concerning the reduction of the quantity and harmfulness of waste, on preparing for the re-use of waste, or for its recycling and other recovery, and on deadlines for achieving targets and fulfilling obligations. Targets and obligations may differ by types of waste" (section 8(3)). Although this authorization does not directly affect the determining of whether an item constitutes waste in the sense of the Waste Act, it does affect the classification of waste as eligible for reuse, recycling, energy recovery or final disposal.

By way of example, section 14(3) of the Waste Decree sets out a goal that as of 1 January 2016 at least 50% by weight of municipal waste would be recycled. Similarly, as of 1 January 2016, a restriction on the disposal of organic waste in landfill operations came into force (Government Decree Revising the Waste Decree, 332/2013).

### Disposing of used textiles

Describe how the disposal of used textiles is regulated? Who is responsible? Is there under the current regulation a distinction between the responsibilities in relation to commercial disposal and the disposal of household wastes?

3(a) There are no specific provisions for the disposal of textile waste, however, textile waste is disposed in accordance with the general provisions concerning waste management set out in chapters 4–6 of the Waste Act.

As a starting point, the waste holder, in other words the waste producer, property holder or anyone in possession of the waste (section 6(1), part 5), is obligated to organize the waste management under section 28 of the Waste Act, unless otherwise provided in chapters 5 or 6 of the Waste Act.

First, chapter 5 of the Waste Act regulates the municipality's obligation to organize the waste management services for municipal waste. Section 32 of the Act sets out the municipality's primary obligation and duty to organize a waste management system for the management of "waste generated in permanent dwellings, holiday homes, residential homes and other forms of dwellings," and other such municipal waste generated in health care and social welfare services, educational activities, public law corporations and business premises (see also section 6, Waste Act for a definition of "municipal waste"). The section sets out a system for the management of household waste, including textile waste, and other such waste for which the municipality is solely responsible. As regards textile waste, textiles intended solely for reuse, do not constitute waste and, thus, the processing of such waste does not fall within the municipality's waste management system (see questions 1, 2 and 4).

In cases where the waste item falls within the municipal waste management system, the municipality ensures the transport of the waste from an agreed reception point at a private property, the maintenance of which the property holder is responsible for, or in scarcely habited areas, from a reception point to which the property holder or other waste holder shall deliver the waste (sections 34–40). In order to ensure the functioning of the system, the municipality must establish a stable and functional collection system of waste and meet certain quality standards set by the Waste Act (section 34–35).

In accordance with section 43 of the Waste Act, the municipality may assign its duties in relation to waste management services to a company established for that purpose and jointly owned by the municipality along with other municipalities. However, the municipality remains responsible for ensuring that the established waste collector fulfills the waste management services in accordance with the Act and the provisions issued thereunder. In case that the municipality buys waste management services from a private actor, the provisions of the Act on Public Contracts 348/2007 would apply to such a public tender.

Finally, on top of the municipality's obligation to organize the management of municipal waste, the municipality also has a secondary responsibility to organize the waste management for waste other than that referred to in section 32 above, if "the

waste holder so requests due to the lack of other services provided, and the waste is suitable in quality and quantity for transport or treatment within the municipality's waste management system" (section 33).

Second, chapter 6 of the Waste Act sets out the framework for a waste management system based on producer responsibility. The producer responsibility system, however, does not at the moment extend to textile producers (section 48). Therefore, the responsibility to organize the disposal of textile waste remains either with the waste holder or, in the case that the provisions of chapter 5 of the Waste Act apply, with the municipality. Please refer to chapter 6 for a full description of the producer responsibility system.

Third, if the textile waste does not fall under the scope of chapter 5 or chapter 6 of the Waste Act (see above), the waste holder is responsible for delivering the waste to a qualified party. A party is qualified to receive the waste in question under chapter 11 of the Waste Act or by virtue of an environmental permit granted in accordance with the Environmental Protection Act 527/2014, hereinafter Environmental Protection Act (section 29(1)). Waste may also be delivered to a consignee that has the sufficient expertise as well as financial and technical capacity to organize the waste management (section 29(2)), such as a non-profit collector of used textiles (Ekroos et al. 2013).

Chapter 11 of the Waste Act concerns persons intending to engage in waste transport or act as waste dealers on a professional basis. Sections 94–99 of the Waste Act oblige such actors to submit an application for approval of such activities to the centre for economic development, transport and the environment in whose area of responsibility the operator is domiciled. Section 100 of the Waste Act further obliges any persons intending to engage in the collection of waste on a professional basis to submit a notification for entry in a waste management register to the environmental protection authority of the municipality within which the collection occurs. Textile collectors collecting textile items for reuse in shops or other such facilities have not been required to submit a notification in accordance with section 100 of the Waste Act (Report on the application of provisions regulating municipal waste, 2015), but must fulfill the requirements set out in section 29(2) of the Waste Act.

As to the activities subject to an environmental permit, as a starting point, under the Environmental Protection Act all activities giving rise to a threat of environmental contamination are subject to an environmental license. These activities, listed in a non-exhaustive manner in annex I of the Environmental Protection Act, include, for instance, the professional production of textiles as well as treatment of waste on a professional basis or at an installation. Generally, the need for a license is examined by the governmental or municipal environmental protection authority (chapter 3 of the Environmental Protection Act) on a case-by-case basis taking into consideration the nature, scope and environmental effects of the production (Memorandum on the Application of the Waste Act, 2014).

Turning back to the responsibilities of the waste holder, the waste holder is relieved from all responsibilities once the waste has been delivered to a party set out in section 29 of the Waste Act (section 30(1)). In other cases, the former waste holder and the consignee of the waste both remain responsible for organizing the waste management

(section 30(2)). With respect to the transport of the waste, the agent in charge of transporting the waste does not bear any responsibility in accordance with the Waste Act, and such responsibilities remain with the waste holder during the transportation of products. Responsibility for the management of the waste usually shifts to the designated consignee upon delivery. However, in cases where the transport is conducted on behalf of the consignee, responsibility may shift already as of the beginning of the transport (Ekroos et al. 2013).

#### Further comments:

- *Municipal authorities' obligation to organize the waste management of municipal waste:*  
From the perspective of the Constitution of Finland 731/1999 the municipality's primary responsibility to organize the waste management of municipal waste has at its root the public authorities' responsibility to guarantee everyone a right to a healthy environment (section 20). Thereby, waste management activities must be ensured in an environmentally and healthy manner and the municipal authorities have been regarded as the most suited actors for ensuring the implementation of this responsibility in the whole of Finland (PeVL 58/2010).
- *General principles guiding the implementation of the Waste Act:*  
On top of the general obligation to comply with the order of priority, other underlying principles of the Waste Act guiding the disposal of textile waste are set out in chapter 2 of the Act. These include, the product manufacturers, suppliers and distributors obligation to exercise caution and obligation to provide information, a general obligation to prevent harm caused by waste and waste management, and an obligation to sort waste and label hazardous waste.
- *The release of hazardous chemicals during the processing of textile waste:*  
Finally, with respect to the recycling of textile waste and the possible release of hazardous chemicals during the process, within the limited scope of this report a few very general remarks are in place. According to estimates of the TEXJÄTE End Report, with the current means available for textile recycling in Finland, no chemical related legislative barriers should exist, with the exception of restrictions regarding POP chemicals. However, with the current techniques, products containing such chemicals are highly unlikely to be recycled (TEXJÄTE end Report, 2015). Despite this, as textile recycling technology evolves, operators managing textile waste should be aware of possible developments in chemical related regulation.

#### The collection of textiles

How is the collection of used textiles regulated?

If there is no specific regulation of the collection of textiles then how is used clothes disposed of in practice and according to which criteria if any (try to give a general view – we recognize that this may be regulated differently in different cities, municipalities etc.)? Is there a regulatory distinction between commercial textiles and households?

Generally, the collection and disposal of used textiles falls under the scope of the municipality's obligation to organize the waste management activities related to municipal waste (see question 3 above). However, textile items collected directly for reuse fall outside the municipal's obligations, as such textile items do not constitute waste (see questions 1 and 2). Textile collectors, such as charity organizations, shops, etc., may collect used textiles for reuse without being obliged to make any arrangement on waste collection with the responsible municipal authority. It must be emphasized that the textiles must be collected specifically for reuse.

However, such textile collectors usually collaborate with municipalities by virtue of contractual relations because the collectors collect the textiles through municipal waste collection points (Report on the application of provisions regulating municipal waste, 2015). Some municipalities have not allowed textile collectors to set up private collection points outside municipal waste collection points, the set-up of which usually requires that a notification be made to the relevant municipal authority. By way of example, in the Helsinki metropolitan area, the municipalities belonging to this area have generally objected the set-up of private collection points and demanded that such points be established in connection with the municipality's waste collection points. At the moment the textile collectors acting in the Helsinki metropolitan area, U-landshjälp från Folk till Folk i Finland rf (UFF) and Fida Lähetystorit (Fida), have entered into contracts with the relevant municipal authorities, which contracts regulate UFF's and Fida's use of the municipal waste containers and the collection of textiles from such containers. However, UFF and Fida do not act on behalf of the municipal authorities by virtue of their contracts, and, therefore, are not fully bound by the applicable laws regulating the actions of the municipal waste management authorities. Therefore, despite falling outside the municipal waste management system, textile collectors collecting used textiles for reuse should be prepared to cooperate with the municipal authorities (HSY, 29 Nov 2016). Finally, the municipality remains responsible for organizing the waste management of textiles disposed by the textile collector, as usually some textiles delivered for re-use are eventually disposed as textile waste.

4(b) In practice, by looking at statistics and municipal instructions on the disposal of textile waste, some conclusions can be drawn on the actual practice regarding the disposal of textiles.

The most recent and up-to-date statistics on textile waste in Finland can be found gathered in the TEXJÄTE End Report from 2015. According to the statistics presented in the End Report, the vast majority of textile disposal derives from consumers, and only a tenth from various production facilities and industries. Of these textiles approximately 77% were disposed as waste and 23% were donated to charities. These

figures do not include the percentage of textiles that were transferred between consumers as gifts or through flea markets (TEXJÄTE end Report, 2015).

These statistics are in line with the instructions provided for instance by the Helsinki Region Environmental Services Authority, hereinafter HSY, which instructs consumers to offer textile items in good condition to second hand stores, recycling centers and charity shops, resale them online, or bring them to recycling points found all across Finland. The municipal waste management companies and charity organizations such as UFF and Fida run these recycling points. Textile items not feasible for re-use are advised to be used as cleaning rags or carpet weaving material, repaired, given to animal shelters or to textile collection points organized by chain stores, or sorted into mixed waste. In the Helsinki metropolitan area mixed waste is transported by HSY to the Vantaa Energia waste-to-energy plant (HSY textile sorting instruction). However, according to the TEXJÄTE End Report in 2012 in the whole of Finland of mixed waste approximately 40% was exploited as energy with 60% disposed to a landfill (TEXJÄTE end Report, 2015).

A consumer survey on textile recycling carried out in connection with the TEXJÄTE End Report gives further insight into the practice regarding textile waste disposal. According to the survey, approximately 25–40% of the consumers that took part in the survey primarily disposed textile waste, not suitable for re-use, with other mixed waste. 10% disposed such waste with energy waste, when possible, 20% was donated to charity, for instance for animal shelters, and 20–30% of the textile waste was put to use for instance as cleaning rags. Of reusable textile waste, almost all were distributed through different means (charities, friends and family, flea markets) for re-use, with about 5% ending up as disposed waste (TEXJÄTE end Report, 2015).

In conclusion, it seems that in practice, consumers, generating the most textile waste in Finland, pursue to distribute re-usable textile waste for re-use through various means making use of charity organizations and recycling points. However, textile waste not suited for re-use is primarily disposed with mixed waste, which ends up being either exploited as energy or in a landfill. At the moment, the recycling of textile waste seems marginal, if not non-existent.

#### **The collector**

How is the collector regulated when the used textiles are for re-use (second hand sale)? How is the collector regulated when the used textiles are regarded as waste? Is there a distinction between commercial textiles and the textiles deriving from households? Would there be any registration or permitting requirements? Or educational requirements targeting the waste collector? Would there be any issues in relation to competition law, including public procurement requirements?

The regulation applicable to the collector of used textiles is based on the differentiation, whether the collected textile item is intended for reuse or regarded as waste. If the used textile item is specifically intended for re-use and delivered to a textile collector, such as a charity organization, see question 4. In case of the latter and for a description of

the distinction between commercial textiles and textiles deriving from households, refer to question 3.

Additionally, the collector and its activities are regulated by the applicable national regulation, of which a brief list has been gathered below:

In the case that the collector is a charity organization, the Finnish Associations Act 503/1989 or Act on the Finnish Red Cross 238/2000 usually regulates the organization. However, if the collector is a profit seeking enterprise, the Limited Liability Companies Act 624/2012 or the Partnerships Act 389/1988 regulates the collector.

Should the collector be a public authority, its actions are regulated, inter alia, by the Local Government Act 410/2015 and Administrative Procedure Act 434/2003 etc. In the event that a municipal authority acquires the collection service, the Act on Public Contracts 348/2007 would apply to the tender.

#### **Obligations when the textiles are collected**

Would there be any requirements to the sorting and temporary storing of textiles for re-use or textiles regarded as a waste?

6(a) No particular obligations with respect to the sorting of storing of textile waste have been set out in the Waste Act or other relevant national legislation in Finland. However, section 15(1) of the Waste Act sets out a general obligation to keep waste separate, which obligation must be taken into account as a part of the waste management activities undertaken under the Waste Act. According to the section, "waste of different types and quality shall be collected and kept separate to the extent necessary to prevent hazard or harm being posed to human health or the environment, to comply with the order of priority provided in section 8(1), or to facilitate the appropriate arrangement of waste management, and to the extent technically and economically feasible." Moreover, section 15(2) provides the authorization for the further enactment of government decrees on the matter.

Additionally, in fulfilling their waste management related obligations municipalities must ensure, in accordance with section 34(1), part 3 of the Waste Act, "that a sufficient amount of diverse forms of waste management services are available, such as the separate collection of waste in compliance with the order of priority."

These general obligations set out in the Waste Act can be read to insist that in the management of textile waste various containers for differing purposes, such as recycling, re-use and disposal, be set up when feasible, in order to ensure the proper implementation of the order of priority. There are no specific regulatory sorting or storing obligations as regards the collection of textiles specifically intended for re-use and which do not fall within the scope of the municipality's waste management obligations.

#### **Take-back schemes**

Would it be possible under the current regulation to establish or have a producer responsibility scheme? If there is no system for textile waste, would there then be a system for other waste types, which could be applicable to textiles?

Chapter 6 of the Waste Act introduces a system of producer responsibility. Although not applicable to the textile industry, it sets a basic legal framework for such responsibility, which could potentially apply to the textile industry in the future. However, this would require a redrafting of section 48 of the Waste Act or other legislative changes to the Waste Act as well as introducing a government decree on more detailed matters concerning functioning of the producer responsibility scheme. Currently, producers falling within the scope of producer responsibility must be listed exhaustively in the Act (HE 199/2010).

The producer responsibility system sets out an exception to the waste holder's responsibility to organize waste management (section 28). Generally, the system shifts the responsibility to organize the waste management of certain products and for the associated costs to the producer of those products (section 46(1)). The aim of the system is to advance the implementation of the order of priority, environmentally friendly product design and the reduction of waste in general by making the producer of the products responsible for the organizing and costs of the waste management activities related to those products (Ekroos et al. 2013).

The producer responsibility system set out in the Waste Act extends to products brought to the Finnish market and to a certain amount of other similar products considered reasonable in relation to the producer's market share (section 46(2)). The system only applies to products delivered to the reception points set up by the producer or, in some cases, the distributor (sections 49 and 56). For the effective implementation of the regime as a starting point, the producer retains the right of precedence to organize the waste management for the products within the system (section 47). Producers may also establish a producer corporation to manage producer responsibility set by the Waste Act on the producer (sections 62–64).

#### **Traceability**

Would there under the current regulation be an existing system for tracing textile waste from collection to the final handling of the waste? Would this also include used textiles destined for second hand sale? If there is no system for textile waste, would there then be a system for other waste types which could be applicable?

The traceability of textile waste and textiles destined for second hand sale is achieved through labelling and reporting duties (see question 9) set out in the Waste Act as well as through the information provided by public waste management authorities and other actors in charge of processing waste (see for instance the HSY textile sorting instruction). However, these procedures only provide a general picture of the processes concerning

textile waste and, thus, do not guarantee that the entire life span of an individual textile item is traceable.

Within the producer responsibility system, as a part of the provisions regulating beverage containers section 70 requires that beverage containers be labelled in accordance with the section in order to ensure that consumers are aware of the waste management system to which the waste must be returned. However, textile waste falling outside the producer responsibility system (see question 7) would not fall within this regime.

Furthermore, section 120 of the Waste Act sets out monitoring and supervision obligations for actors set out in section 118 of the Waste Act. However, these obligations do not concern household waste or other such waste, which textile waste usually constitutes to (see questions 1, 3 and 4 and below question 9).

Therefore, under the current legislation, the traceability of used textiles mostly rests on private procedures set up by various actors. The most accurate description of the waste process concerning a textile waste item is likely to be achieved through the data collected by the municipal waste authorities in accordance with section 39 of the Waste Act (see question 9 below) and the information provided by the same authorities (see e.g. HSY report on municipal waste, 2013).

#### **Reporting on textile waste quantities and types**

Who is responsible and for what?

Currently, the only annually reported quantities of textiles, covering the whole of Finland, can be found in statistical reports compiled by Statistics Finland and the Finnish Customs (TEXJÄTE end Report, 2015). No particular provisions exist in national Finnish legislation regarding the reporting of textile waste and types. However, the Waste Act does include some general reporting obligations concerning waste amounts and types.

Section 39 of the Waste Act obliges the waste carrier to provide the municipal waste management authorities information of the properties from which waste has been collected, and the number of times waste containers have been emptied, by property and type of waste. The section establishes a legislative framework for the systematic collection of information of municipal waste management activities and, thereby, allows the municipal authorities to develop waste management activities further.

Sections 54 and 118 of the Waste Act set out other reporting duties. Section 54 regarding producer responsibility sets an obligation for the producer to keep records of the products and waste generated, and provide such information to the Centre for Economic Development, Transport and the Environment for Pirkanmaa, the competent national authority with respect to issues concerning producer responsibility under the Waste Act (section 22(4)). Section 118 of the Waste Act sets a more general obligation to keep record and provide information of waste quantities, which obligation, however, has only been limited to certain actors. The collection of used

textiles is unlikely to fall within the scope of either of the sections (see questions 3 and 7). In accordance with the wording of section 118:

“The operator shall keep a record of waste, if it concerns:

1. an activity that generates a minimum of 100 tonnes of waste per year;
2. an activity that generates hazardous waste;
3. treatment of waste on a professional basis or at an installation referred to in Annex 1, tables 1(13) and 2(13) of the Environmental Protection Act; however, not treatment referred to in section 32 (1)(1–3) of the Act; (27.6.2014/528);
4. an activity other than those referred to in paragraphs 1–3, which is subject to an environmental permit;
5. transport of waste and acting as a waste dealer, referred to in section 94, and waste collection, referred to in section 100.”

#### **Import or export of used textiles regarded as waste**

How is import or export regulated in national legislation supplementing the EU Regulation on transboundary shipments of waste? When is textile waste considered a waste belonging to the green list or waste subject to notification?

The Finnish Environment Institute is the competent authority responsible for waste shipments from, into, and through Finland and provides assistance and guidance on selecting the legally sound waste shipment method for each occasion. Generally, the waste exporter is obliged to verify with the above-mentioned authority which permits are required for the waste shipment, which possible permit is determined by the classification of the waste type, its shipment for recovery or disposal and country of destination. Cross-border waste shipment in Finland is largely regulated through the applicable EU regulation, however, to supplement these provisions chapter 12 of the Waste Act provides some provisions on certain issues (see, HE 199/2010; Permit procedure or shipment of green waste, 2015; Transfrontier shipments of waste, 2016).

Sections 109 and 110 of the Waste Act concern the shipment of waste for disposal and shipment of mixed municipal waste for recovery from and to Finland and complement the provisions of the EU Regulation on transboundary shipments of waste by adding requirements for the shipment of such waste. Sections 111–116 clarify the rights of the Finnish Environment Institute as regards certain export prohibitions, information recovery, pre-consents concerning waste recovery facilities and financial guarantees. Section 117 regulates on the duties of the Finnish customs.

Additionally, as regards cross-border waste shipment, two principles set out in the Waste Act should be taken into consideration, namely the principle of self-sufficiency and the principle of proximity, both found in section 19 of the Waste Act. The prior requires that the authorities in charge of waste management in Finland ensure that sufficient possibilities exist in Finland to meet the need for the recovery or disposal of municipal waste and other waste (section 19(1)). The latter sets out a responsibility for the waste

holder to deliver the waste to the nearest facilities suitable for processing the waste (section 19(2)). Self-sufficiency does not require national self-sufficiency but rather leaves the possibility for EU Member States to ensure the principles implementation in their cooperation within the field of waste management. In essence, the principle ensures that waste is processed in an adequate manner and with the best available technology in the nearest proximity available. The principle of proximity ensures that waste holders deliver waste to these locations (Ekroos et al. 2013).

#### **Used textiles trade (when destined for second hand sale)**

How is the commercial exchange (import/export) of used textiles and the non-commercial ex-change (charity) of used textiles regulated?

The shipment of used textiles intended for reuse does not fall within the provisions regulating cross-border shipments of waste and, thus, their import and export is regulated through the applicable EU regulation on the matter.

The attachment # 1 to this template "Criteria for collectors seeking certification for collection of textiles aimed for reuse and textile waste" is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?

#### **General remarks**

If used textiles are collected for reuse and as textile waste, the collection will intersect with the municipal authorities' obligation to organize the waste management services of household waste and other such municipal waste, including textile waste. Accordingly, the collection of textile waste would require that arrangements concerning the fulfillment of these public duties be made with the relevant municipal authority, and that the textile collector comply with the same requirements as set for public authorities conducting such tasks. Generally, see questions 3 and 4 above. As regards the collection of used textiles for reuse, please also refer to question 13 below.

#### **Other remarks**

- *Definition of a socially beneficial organization:*  
A charity association must be set up in accordance with the Finnish Associations Act 503/1989, which Act requires that the organization be set up for the common realization of a non-profit purpose (section 1). The association may not pursue to attain profit or other financial benefit, and its activities may not primarily be financial (section 2). The Act also sets various other legal requirements for the establishment of a non-profit association (chapter 1). The association is established by registering it at the Finnish Patent and Registration Office, which

checks the association's accordance with the applicable laws. If no obstacles for the registration exist, the association is registered (chapter 9).

The attachment # 2 to this template "Criteria for collectors seeking certification for collection of textiles aimed for reuse only" is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?

#### General remarks:

When used textile items are collected solely for re-use, the items do not constitute waste (see questions 1 and 2) and, therefore, do not fall within the scope of the municipality's obligatory waste management system. Indeed, as a starting point stores and charity organizations are free to collect textiles for re-use without having to agree on the collection of such textiles with the relevant municipal authority. However, if collected through municipal waste collection points, the use of the municipality's waste collection containers must be contractually arranged with the municipality. Please refer to question 4 for more details. Generally, the system would mostly rely on the voluntary actions and cooperation of various actors and its functioning would depend largely on the expertise, as well as, financial and technical capacities of the collector.

#### Other remarks:

- *Definition of a socially beneficial organization:*  
See above question 12.

Please list relevant literature, including reports, articles etc. which describes the legal issues dealt with above. Please include a link where possible.

#### Literature

Ekroos Ari, Kumpula Anne, Kuusiniemi Kari and Vihervuori Pekka, Ympäristöoikeus (2nd edn, Sanoma Pro Oy 2013) referred to as "Ekroos et al. 2013"

#### Other Publications

Jätelain eräiden säännösten tulkintalinjauksia (Unofficial translation – 'Memorandum on the application of some provisions of the Waste Act') (*Ministry of the Environment, Environmental Protection Department, Memorandum 19 December 2014*) at <[http://www.ym.fi/fi-FI/Ymparisto/Lainsaadanto\\_ja\\_ohjeet/Jatelainsaadanto/Ohjeet\\_ja\\_oppaat](http://www.ym.fi/fi-FI/Ymparisto/Lainsaadanto_ja_ohjeet/Jatelainsaadanto/Ohjeet_ja_oppaat)> (30 November 2016) referred to as "Memorandum on the Application of the Waste Act, 2014"

Jätelakiopas – Yhdyskuntajätehuoltoa ohjaavat säännökset (Unofficial translation – 'Instruction concerning the application of the Waste Act – provisions related to municipal waste') (*Ministry of the Environment, Environmental Protection Department, The Finnish Environment 5/2015*) at <[https://julkaisut.valtioneuvosto.fi/bitstream/handle/10138/158367/OH\\_5\\_2015.pdf?sequence](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10138/158367/OH_5_2015.pdf?sequence)

=1> (30 November 2016) referred to as "Report on the application of provisions regulating municipal waste, 2015"

Permit procedure or shipment of green waste (*Waste export and import guidelines, the Ministry of the Environment, 2 February 2015*) at <[http://www.environment.fi/en-US/Forms\\_permits\\_and\\_environmental\\_impact\\_assessment/Permits\\_notifications\\_and\\_registration/Transfrontier\\_shipments\\_of\\_waste/Waste\\_export\\_and\\_import\\_guidelines/Permit\\_procedure\\_or\\_shipment\\_of\\_green\\_waste](http://www.environment.fi/en-US/Forms_permits_and_environmental_impact_assessment/Permits_notifications_and_registration/Transfrontier_shipments_of_waste/Waste_export_and_import_guidelines/Permit_procedure_or_shipment_of_green_waste)> (30 November 2016) referred to as "Permit procedure or shipment of green waste, 2015"

Pääkaupunkiseudun kotitalouksien sekajätteen määrä ja laatu vuonna 2012 (Unofficial translation – Type and amount of municipal waste in the Helsinki metropolitan area in 2012' (*Helsinki Region Environmental Services Authority HSY, 2/2013*) at <[https://www.hsy.fi/sites/Esitteet/EsitteetKatalogi/Julkaisusarja/2\\_2013\\_pks\\_kotitalouksien\\_sekajatteen\\_maaja\\_ja\\_laatu\\_lr.pdf#search=tekstiili%202013](https://www.hsy.fi/sites/Esitteet/EsitteetKatalogi/Julkaisusarja/2_2013_pks_kotitalouksien_sekajatteen_maaja_ja_laatu_lr.pdf#search=tekstiili%202013)> (30 November 2016) referred to as "HSY report on municipal waste, 2013"

Sorting instructions – Clothing and other textiles (*Helsinki Region Environmental Services Authority HSY, 16 November 2016*) at <<https://www.hsy.fi/en/residents/sorting/instructions/textiles/Pages/default.asp>> (30 November 2016) referred to as "HSY textile sorting instruction"

Tekstiilien uudelleenkäytön ja tekstiilijätteen kierrätyksen tehostaminen Suomessa (Official translation – 'More efficient re-use of textiles and recycling of textile waste in Finland') (*Ministry of the Environment, Environmental Protection Department, The Finnish Environment 4/2015*) at <[https://helda.helsinki.fi/bitstream/handle/10138/155612/SY\\_4\\_2015.pdf?sequence=4](https://helda.helsinki.fi/bitstream/handle/10138/155612/SY_4_2015.pdf?sequence=4)> (30 November 2016), referred to as "TEXJÄTE end Report, 2015"

Transfrontier shipments of waste (*Permits, notifications and registration, the Ministry of the Environment, 24 November 2016*) at <[http://www.environment.fi/en-US/Forms\\_permits\\_and\\_environmental\\_impact\\_assessment/Permits\\_notifications\\_and\\_registration/Transfrontier\\_shipments\\_of\\_waste](http://www.environment.fi/en-US/Forms_permits_and_environmental_impact_assessment/Permits_notifications_and_registration/Transfrontier_shipments_of_waste)> (30 November 2016) referred to as "Transfrontier shipments of waste, 2016"

Vaikutusten arviointi kunnan vastuun rajauksesta yhdyskuntajätehuollossa (Unofficial translation – 'Confining the municipalities waste management obligations as regards municipal waste – an evaluation of the effects') (*Ministry of the Environment, Environmental Protection Department, The Finnish Environment 20/2016*) at <<http://publish.istekkipalvelut.fi/kokous/2016356926-7-5.PDF>> (30 November 2016) referred to as "Report on municipal waste management obligations, 2016"

## Other

HE 199/2010 vp: Hallituksen esitys Eduskunnalle jätelaiksi ja eräiksi siihen liittyviksi laeiksi (Unofficial translation – 'Government Proposal for the Waste Act and their related acts') at <<http://www.finlex.fi/fi/esitykset/he/2010/20100199>> (30 November 2016), referred to as "HE 199/2010"

Interview with Johanna Routio (*Lawyer at the Helsinki Region Environmental Services Authority (HSY), 29 November 2016*), referred to as "HSY, 29 Nov 2016"

Perustuslakivaliokunnan lausunto PeVL 58/2010 vp – Hallituksen esitys jätelaiksi ja siihen liitetyiksi laeiksi, HE 199/2010 (Unofficial translation – 'Statement of the Constitutional Committee on the Government Proposal for the Waste Act and their related acts') at <[https://www.eduskunta.fi/FI/vaski/Lausunto/Documents/pevl\\_58+2010.pdf](https://www.eduskunta.fi/FI/vaski/Lausunto/Documents/pevl_58+2010.pdf)> (30 November 2016), referred to as "PeVL 58/2010"

Please list the relevant legislation in full including an active link to the legal document in question.  
Please indicate in brackets and using key words what the listed legal document regulates.

## Acts and Decrees

- Hallintolaki 434/2003 at <<http://www.finlex.fi/fi/laki/ajantasa/2003/20030434>> (30 November 2016)
- Unofficial translation of the Administrative Procedure Act 434/2003 at <<http://www.finlex.fi/fi/laki/kaannokset/2003/en20030434.pdf>> (30 November 2016)
- Jätelaki 646/2011 at <<http://www.finlex.fi/fi/laki/ajantasa/2011/20110646?search%5Btype%5D=pika&search%5Bpika%5D=j%C3%A4telaki>> (30 November 2016)
- Unofficial translation of the Waste Act 646/2011 (amendments up to 528/2014 included) at <<http://www.finlex.fi/en/laki/kaannokset/2011/en20110646.pdf>> (30 November 2016)
- Kuntalaki 410/2015 at <<http://www.finlex.fi/fi/laki/alkup/2015/20150410>> (30 November 2016)
- Unofficial translation – ‘Local Government Act’
- Laki avoimesta yhtiöstä ja kommandiittiyhtiöstä 389/1988 at <<http://www.finlex.fi/fi/laki/ajantasa/1988/19880389?search%5Btype%5D=pika&search%5Bpika%5D=komman%2A>> (30 November 2016)
- Unofficial translation of the Partnerships Act 389/1988 at <<http://www.finlex.fi/fi/laki/kaannokset/1988/en19880389?search%5Btype%5D=pika&search%5Bpika%5D=Partnerships%20Act>> (30 November 2016)
- Laki julkisista hankinnoista 348/2007 at <<http://www.finlex.fi/fi/laki/ajantasa/2007/20070348>> at (30 November 2016)
- Unofficial translation of the Act on Public Contracts 348/2007 at <<http://www.finlex.fi/fi/laki/kaannokset/2007/en20070348.pdf>> (30 November 2016)
- Laki Suomen Punaisesta Rististä 238/2000 at <[https://www.punainenristi.fi/sites/frc2011.mearra.com/files/tiedostolataukset/SPR\\_laki.pdf](https://www.punainenristi.fi/sites/frc2011.mearra.com/files/tiedostolataukset/SPR_laki.pdf)> (30 November 2016)
- Unofficial translation of the Act on the Finnish Red Cross 238/2000 at <<http://www.finlex.fi/fi/laki/kaannokset/2000/en20000238.pdf>> (30 November 2016)
- Osakeyhtiölaki 624/2012 at <<http://www.finlex.fi/fi/laki/ajantasa/2006/20060624>> (30 November 2016)
- Unofficial translation of the Limited Liability Companies Act at <<http://www.finlex.fi/fi/laki/kaannokset/2006/en20060624.pdf>> (30 November 2016)
- Perustuslaki 731/1999 at <<http://www.finlex.fi/fi/laki/ajantasa/1999/19990731>> (30 November 2016)
- Unofficial translation of the Constitution of Finland 731/1999 (amendments up to 1112 / 2011 included) at <<http://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>> (30 November 2016)
- Valtioneuvoston asetus jätteistä 179/2012 at <<http://www.finlex.fi/fi/laki/ajantasa/2012/20120179>> (30 November 2016)
- Unofficial translation of the Government Decree on Waste 179/2012 at <<http://www.finlex.fi/en/laki/kaannokset/2012/en20120179.pdf>> (30 November 2016)
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### 5.3 Norway

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#### Legal definition of used textiles

*Re-use* is “any operation by which products or components that are not waste are used again for the same purpose for which they were conceived”, cf. Framework Directive on Waste Art. 3(13). Would there be any supplementary national regulation that is applied to define used textiles as a product for re-use under national law?

The term *waste* is defined as “any substance or object which the holder discards or intends or is required to discard”, cf. Framework Directive on Waste Art. 3(1). Would there be any supplementary national regulation that is applied to define when used textiles are regarded as a waste under national law?

The concept of re-use (*ombruk*) is referred to in the Pollution Control Act (§2.4 – guiding principles; §33, a) and f) – waste recovery and other treatments), the Pollution Control Regulations (to a limited extent) and the Waste Regulations. It is referred to in a general manner, with more detailed elements of definition for some categories of waste (e.g., EEE waste) than others. It is notable that the requirement to encourage for re-use (as one of the guiding principles of waste management in waste management) and the competence to require for it has been reinforced in the recent amendments made to the Pollution Act. The operations of preparation for re-use are now explicitly stated among the waste management operations (§33, a) and f), Pollution Control Act).

The recent legislative amendments to the Pollution Control Act and the definition of waste have resulted in the promotion of further re-use in the hierarchy of waste management operations, and, in doing, so, to put the Norwegian legislation in line with the wording of the Waste framework directive (2008/98/EC as amended). (See legislative proposal Prop. 89 L (2015–2016); amendments entered into force on 9 December 2016.) The new wording of the Pollution Control Act also better reflects the national policy priorities in the domain of waste management (Norwegian government, 2013).

There is no supplementary legislation in Norway that aims specifically to define used textiles as a product for re-use.

It is clear from the language of the Pollution Control Act, the Pollution Control Regulations and the Waste Regulations that clothes and textiles which are meant for re-use will not fall under the definition of waste (Pollution Control Act – *Forurensningsloven*, § 27). However, they will be qualified as waste as soon as they are discarded and fulfill the criteria of the definition of waste, or are discarded together with other residual wastes. The fact that used textiles kept outside residual waste are not defined as waste makes them more difficult to regulate. The collection of used-textiles for re-use purposes fall consequently outside the definition of household waste under the Pollution Control Act.

Clothes for yard sale or collected clothes for re-use are not to be considered as waste until it is decided that they will be discarded.

A hypothesis which is considered by several municipalities is to arrange for the collection of used textile either at a collection point or at home, using the same circuits as for household waste. However, when used clothes are collected by the same services as for waste, the same circuits apply. See below.

The most direct references made in the Waste Regulations to textiles concern primarily hazardous textiles waste, and are copied from the European Waste list. See below:

Waste list, Waste Regulations, Chapter 11 – Hazardous waste, Annex I:

- Category 04: Avfall fra lærvare-, pelsverk- og tekstilindustrien
- Category 19 12 08: avfall fra mekanisk behandling av avfall (f.eks. sortering, knusing, komprimering, pelletering) som ikke er spesifisert andre steder – tekstil
- Category 20 – Kommunalt avfall (husholdningsavfall og lignende avfall fra handel, industri og institusjoner) herunder separat innsamlede fraksjoner / 20 01 11 – Textile

#### Further comments:

There is a clear need to further clarify the classification of used-textiles in order to, first, clarify the applicable regime, and, second, further develop the activities (including commercial) around their collection, re-use and recovery. The responsible authorities have the competence to adopt, for example, guidelines for the interpretation or the further definition of concept, pursuant to the Pollution Control Act.

The Norwegian Waste Management and Recycling Association, Avfall Norge, has suggested treating used clothes and textiles as waste. In particular, defining them as household waste when originating from private individuals, will allow including their management within the responsibility of the municipality.

#### The competent authority

Who has under the national legal framework the competence to determine whether an item is waste or not, including the classification of waste as eligible for reuse (second hand sale), recycling, energy recovery or final disposal (landfilling/incineration)?

The competence is shared between Ministry of Climate and EnvironmentNorwegian EnvironmentAgency (Miljødirektoratet), but the Agency is the one reviewing the classification in practice. Cf. Pollution Control Act §81 and Waste Regulations § 19–3.

Detailed rules applicable to the classification of waste and different forms for waste management are regulated in the Waste Regulations.The majority of it is based on EU legislation, with few national adaptation measures.

### Disposing of used textiles

Describe how the disposal of used textiles is regulated? Who is responsible? Is there under the current regulation a distinction between the responsibilities in relation to commercial disposal and the disposal of household wastes?

Once discarded, the disposal of used textiles considered as waste follows the same rules that for disposal of household or commercial waste, according to the source and properties (such as chemicals, bio-organic components, etc.). The applicable legislation is the Waste Regulations, Chapter 9 (deponering av avfall).

The most important existing measure in terms of waste disposal applicable to used textile has been the ban on the landfilling of bio-degradable waste, which entered into force on 1 July 2009. The ban implies that biologically degradable waste, such as textiles, must be disposed of in alternative ways. The prohibition applies to textiles (of natural materials, such as cotton, silk or wool). The measure has resulted in a great reduction of disposed textile waste.

Following the adoption of that measure, the disposal of textile waste has been significantly reduced (73 per cent reduction since 1995) (source: SIFO report 2-2012). Meanwhile and until 2012, exceptions are made in respect of waste with a total organic carbon content not exceeding 10%, waste with loss on ignition not exceeding 20% and in certain other specified cases. Some exemptions have been granted, but since the regime for exemptions is not ended, the figures should then continue to decrease further after 2012 (jf. SFT, 2009).

The legislation does make a distinction between commercial disposal and disposal of household waste, based on the distinction made between commercial and household waste:

- Commercial wastes are defined in the Pollution Control Act, § 27a, para. 2, and cover both waste from public and private undertakings and institutions.
- Household wastes are defined in the Pollution Control Act, § 27a, para.1, and cover waste from private households.

The difference between commercial and household waste is related to the circuit for their collection and treatment.

Municipalities are held legally responsible for the proper collection and treatment of household waste (Pollution Control Act, §29, para.4). In most cases, the municipalities delegate these tasks to inter-municipal companies in possession of treatment plants. Public procurement rules apply.

Commercial entities, public or private, have the obligation to foresee the management of the waste they have produced in accordance with the requirements of the Pollution Control Act, §32. Notably, they have the obligation to ensure that waste is transported to appropriate treatment facilities (Ibid). Wastes from commercial

activities are usually transported by professional actors and handled by private waste operators, working on commercial terms.

All waste treatment facilities must obtain a permit from the competent authorities. The authority to grant permits for commercial and household waste is shared between the Norwegian Environment Agency (Miljødirektoratet) and the County Governor (Fylkesmannen) (Pollution Control Act §48; Waste Regulation, §9-3, p)). The Norwegian Environment Agency is the competent authority for national landfills for hazardous waste and for "business internal landfills" when the company's primary activity requires a permit from the Agency pursuant to the Pollution Control Act (Waste Regulations, §9-3, p)). The County Governor is the competent authority for corporate landfills when the company's primary activity requires a permit from the county governor under the terms of the Pollution Control Act, for municipal/intermunicipal landfills and for privately owned landfills for non-hazardous waste that do not belong to a company (Waste Regulations, §9-3, p)). Those authorities shall also supervise that the requirements of permits and regulations are fulfilled. Municipalities have a particular responsibility for overseeing, among other things, littering in their own municipalities and handling of industrial waste which are similar to household waste.

In addition to the source of waste to be disposed, the Norwegian makes the distinction between the category of waste and distinguishes three categories or landfills (Waste Regulations, §9-5):

- a) Class 1: landfills for hazardous waste;
- b) Class 2: landfills for non-hazardous waste;
- c) Class 3: landfills for inert waste.

Pursuant to the definition of the Waste Regulations (§9-3, f), textile waste will in most cases fall under the category of non-hazardous waste (ordinært avfall). The landfill plant handling textile waste will then in most cases be of class 2. As a consequence, most textile waste is incinerated if it is not reused, recycled or exported.

An operator of a waste landfill must have a permit under the terms of the Pollution Control Act (§9-7). Permits for landfilling shall not be granted unless the landfill can satisfy all the relevant requirements in of the Pollution Control Act, Chapter 9 and its appendices.

The municipalities have a certain margin of appreciation when determining the municipal fees for waste treatment. The criteria for setting the municipal fees are defined in the Waste Management Regulations, Chapter 15, and rely on the full-accounting principle (§15.3, para. 2). This is in application of the general principles for the determination of waste management fees defined in the Pollution Control Act (§34), which give such competence to the municipality (pursuant to §15.3 of the Waste Management Regulations, the competence pertains to the municipality council). The Norwegian Environment Agency has published further guidance as to the methodology to be applied when defining the fee level. For further information see: "Beregning av kommunale avfallsgebyr" (Guidance document, Norwegian Environment Agency,

M-258/2014, November 2014)<sup>29</sup> and, as to the full-accounting principle, “Retningslinjer for beregning av selvkost for kommunale betalingstjenester” (Ministry of Local Government and Administration, H-3/14, 2014).<sup>30</sup>

#### The collection of textiles

How is the collection of used textiles regulated? If there is no specific regulation of the collection of textiles then how is used clothes disposed of in practice and according to which criteria if any (try to give a general view – we recognize that this may be regulated differently in different cities, municipalities etc.)? Is there a regulatory distinction between commercial textiles and households?

The collection of textiles for recycling is well established in Norway but almost entirely voluntary. That contrasts with a legislation, which is not yet well developed. A more detailed and encouraging legislation could easily promote further: (i) the collection of used-textiles and (ii) the organization of a transparent and competitive sector around it.

The collection of textiles distinguishes, like otherwise in the waste management legislation in Norway, between two circuits, one for households and one for commercial waste.

#### Collection of used textiles from households for re-use

The recycling of textiles for re-use falls outside the definition of household waste, pursuant to the Pollution Control Act. The market is therefore not regulated as the one for household waste.

Municipalities do not have a monopoly on the collection and processing of textiles for re-use, as they have for household waste. Similarly, they do not have the ability to regulate and control that activity as the ordinary household waste. There are discussions between the waste sector association and the governmental authorities on that issue, which is a growing concern. The Government has defined the reduction of textiles that are discarded as one of the priorities in its 2013 Waste Strategy.

The two main organisations having installed collection points are Fretex ([www.fretex.no](http://www.fretex.no)) and UFF ([www.uffnorge.org/](http://www.uffnorge.org/)), which are charity organisations. These are defined as humanitarian organizations where all the profits go to humanitarian purposes in Norway and abroad. Most waste management companies in Norway have more or less the same type of standard arrangements with one or two of those organisations, both for placement of the containers and the collection. The collection of textiles for re-use is therefore subject to private arrangement between the waste collector and Fretex/UFF.

The collection of used textiles for re-use is usually organized at collection points. It is a significant challenge to find spaces for permanent collection points in the public arena. The collection points are therefore usually located at the same location as for glass and metal, although not subject to the same regime (no direct municipal

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<sup>29</sup> [http://www.miljokommune.no/Documents/Nyheter/Veileder\\_M258.pdf](http://www.miljokommune.no/Documents/Nyheter/Veileder_M258.pdf)

<sup>30</sup> [http://www.regjeringen.no/nb/dep/kmd/dok/veiledninger\\_brosjyrer/2014/retningslinjer-selvkost.html?id=751703](http://www.regjeringen.no/nb/dep/kmd/dok/veiledninger_brosjyrer/2014/retningslinjer-selvkost.html?id=751703)

competence). The placement of containers on the territory of the municipality (such as close to parking places) requires a permit delivered by the municipality. If the containers are placed on private-owned ground, it requires an agreement with the private landowner. Some municipal plans for return and waste management are addressing this issue and try to find solutions to for example situations of absence of regular clean-up. This must be put in perspective with the national goal of increased collection of textiles and glass and metal packaging (2013 Waste Strategy). One alternative would be to align the regime of collected textiles for re-use on the one for glass and metal.

As far as the textile waste is not stored for more than one year at the same location, the container falls outside the definition of "waste storage place". Only a permit for the placement of the container is required, which falls under the competence of the municipality when located on municipal grounds. Most municipalities in Norway have adopted guidelines for the placement of such containers.

It is notable that Fretex has started using postal service for the collection of textiles for re-use within the limit of 8 kg.

- <https://www.fretex.no/gi-til-fretex/fretex-paa-posten/du-kan-ogsaa-gi-til-fretex-paa-posten>

Finally, a growing number of stores offer collection services (bringeordning). The legal definition of those textiles is not clear and depends on the stand of the textiles (re-use or recovery). It should be noted that the Ministry of Climate and Environment does have the competence to introduce labelling requirements on products ISO requires, pursuant to the Product Control Act (Produktkontrollloven), §2 and §4.

#### **Collection of commercial textile waste:**

The collection of commercial textile waste is organized by the companies or organisations themselves, usually based on a private arrangement with a waste collection company. Once textiles are considered as "waste", the company or organization is subject to the general obligations applicable to waste management.

#### **Collection of household textile waste:**

The collection of household textile waste falls under the competence of the municipalities. The practices diverge from one municipality to the other one. Different alternatives are identified:

At the municipal recycling station – bringing arrangement (bringeordning) – voluntary.

All fractions other than household waste, can be supplied by households to the recycling station without extra charge. The costs are covered through a regular waste disposal fee. Cf. Forurensningsloven, §§ 29 and 30.

Together with household waste, in separate bags (henteordning).

This alternative has not been tested yet, but has been suggested. It requires households to sort used textiles at their home and put them in dedicated bags, as they already do for other types of waste. The textile waste will then be collected together

with household municipal waste. As this remains the competence of the municipalities, it is up to the latter to decide whether they want to proceed to such collection. The Norwegian Environment Agency has for example suggested that municipalities could collect textile waste together with another dry waste, such as paper/cardboard.

There is legal basis in the legislation for introducing a provision requiring textile waste sorting (Pollution Control Act, §30 – collection – and §33 – disposal). This can be done through regulations or decisions.

A fact of growing importance is the commercial value of collected used-textiles. This is both an incentive and an important starting point for strengthening competition rules around that activity. Making the collection of used-textiles financially attractive is fundamental for developing a sector around it, but also requires a more careful application of competition rules, including procurement rules.

The collection of waste, including textile waste, within the area of the municipality, is subject to its formal approval (Pollution Control Act, §30). They must also be registered, as any company, in the Company Register, and key accounts of their collection which may be audited and controlled.

#### **Environmental criminality – application legislation to collectors of textiles for reuse**

In recent years, a number of non-serious actors eager to collect used-textiles illegally has emerged.

A voluntary system of control has been created, the so-called Innsamlingskontroll (<http://www.innsamlingskontrollen.no/nb/>). It applies to all organizations in Norway collecting money or items, including textiles and clothes. There are no legal provisions in Norway that directly regulate how a fundraising to take place. Innsamlingskontrollen provides therefore a useful assurance that the collection operations are managed properly and that the money goes to the purpose stated.

Further comments:

Some organisations have suggested the adoption of concrete targets for the collection and recovery of used textiles. Some municipalities have done so at the local level. Some organisations also recommended that the responsibility for used textile collection should fall entirely under the responsibility of the municipalities to ensure a better coverage and a more transparent and competitive market.

#### **The collector**

How is the collector regulated when the used textiles are for re-use (second hand sale)? How is the collector regulated when the used textiles are regarded as waste? Is there a distinction between commercial textiles and the textiles deriving from households? Would there be any registration or permitting requirements? Or educational requirements targeting the waste collector? Would there be any issues in relation to competition law, including public procurement requirements?

The collector of used textiles for re-use can operate either for charity or commercial purposes. The same rules apply as to the placement of containers for collection of textiles for re-use.

The main difference is when the textile for re-use is to be collected together with household waste, which entails the application of the framework for collection of household waste or commercial wastes. See above.

As far as household waste are concerned, municipalities have the competence to organize the collection of textile waste through public procurement, on a more commercial basis.

In addition, when textile waste falls under the competence of the municipality (municipal waste), then the latter has the competence to set conditions as to internal quality controls in order to limit and avoid pollution risks, waste pollution or other negative environmental or economic consequences.

Permitting requirements apply and have been described above.

#### **Or educational requirements targeting the waste collector?**

There are few education requirements targeting the waste collector. Similarly, the Environmental Information Act deals primarily with the exercise of the right to environmental information more than educating activities.

In 2012 the Norwegian Environment Agency proposed the elaboration of a fact-sheet as dedicated to the re-use of textile, but the initiative has not been followed-up. Most fact-sheet adopted relate to producer/importer obligations and hazardous waste in textile components.

In 2012 the Agency also proposed in its answer to the hearing on waste strategy to include information on the environmental effects of increased textile collection in the national waste plan. This has been partially integrated.

Finally, it could be argued that there is enough legal basis in the Norwegian legislation to introduce a stronger information and labelling requirement of textiles with basis in the Environmental Information Act and the Product Control Act.

#### **Would there be any issues in relation to competition law, including public procurement requirements?**

Yes, public procurement rules will apply. Add ref to legislation. Direktoratet for forvaltning og IKT (Difi) has been working on joint guidelines for public procurement. Those guidelines are meant to assist municipalities when they decide to define environmental criteria in their public procurement procedures.

#### **Further comments**

See also answer to point 4 on collection.

#### **Obligations when the textiles are collected**

Would there be any requirements to the sorting and temporary storing of textiles for re-use or textiles regarded as a waste?

There are no specific requirements targeting the sorting of textiles. Consequently, the general requirements on waste collection and waste management apply to the extent textiles are considered as waste. If not considered as waste, the sorting operations are usually organized by charity organizations in Norway or abroad.

Reported data (SIFO, 2012) indicates that approximately 20 per cent of the textiles collected go to material recovery, energy utilization and disposal. Should that share be higher, it may result in the characterization of the whole volume of collected clothes as waste (even if the latter sorted). If the collection clothes are to be defined as waste, then the collectors will be subject to the regime applicable to the collection of household waste, but must obtain a permit from the municipality, pursuant to Pollution Control Act §30.

#### Further comments

There is a growing number of stores organizing the voluntary collection of textiles and clothes at their shops.

##### Take-back schemes

Would it be possible under the current regulation to establish or have a producer responsibility scheme?

If there is no system for textile waste, would there then be a system for other waste types, which could be applicable to textiles?

First, it must be noted that the establishment of a producer responsibility scheme has been considered by the Norwegian authorities, but has not been deemed necessary for the time being because of the good rate of return of used textiles.

Second, it is possible to define such a producer responsibility scheme under current legislation, with some minor amendments to the legislation and following regulatory models abroad, for example. The Norwegian legislation did contain similar regimes for other waste types already in the 1990s, often based on an agreement between the authorities and businesses, supplemented by some few principles defined in the legislation.

Today we have producer responsibility schemes for various types of packaging, electrical and electronic waste equipments, batteries, discarded vehicles, scrap tires and insulating windows containing PCBs.

#### Further comments

In the 2013 Waste Strategy, the Ministry has considered whether it should commence a process to establish a producer responsibility scheme for textiles, but concluded that, because of the positive collection trend, it will not be necessary to introduce such an instrument.

### **Traceability**

Would there under the current regulation be an existing system for tracing textile waste from collection to the final handling of the waste? Would this also include used textiles destined for second hand sale? If there is no system for textile waste, would there then be a system for other waste types which could be applicable?

There is no such system for household waste under the Norwegian legislation. There is only voluntary labelling based on Nordic initiatives.

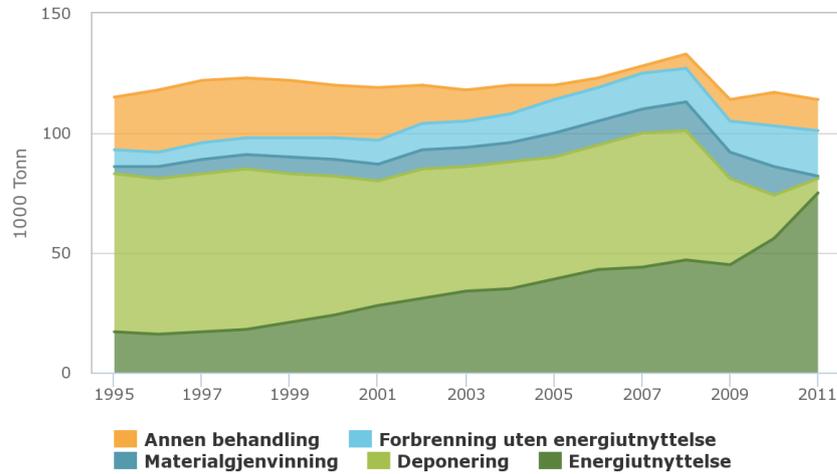
Meanwhile, the legislation foresees the possibility to introduce further labelling and traceability requirements under the Product Control Act (§4), and contribute notably to fulfill the objectives of §1 of that Act (waste prevention notably). It would be possible to adopt a more stringent labelling or traceability scheme for textiles based on that legal basis.

### **Reporting**

Reporting on textile waste quantities and types: Who is responsible and for what?

The organization responsible for the collection and publication of data on waste quantities and types is the Official Statistics of Norway (Statistisk sentralbyrå, SSB). It covers data for both undertakings and households. The data originates from different sources, some of them are only statistical. Other sources are much more precise, such as the regular analysis (plukkanalyser) applied to the waste collected by the municipal and inter-municipal waste companies (plukkanalyser).

**Figure 16: Behandling av tekstilavfall**  
**Behandling av tekstilavfall**



Kilde: Statistisk sentralbyrå (SSB) Lisens: Norsk Lisens for Offentlige Data (NLOD)

Source: <http://www.miljostatus.no/Tema/Avfall/Avfall-og-gjenvinning/Avfallstyper/Tekstilavfall/>

#### Import or export of used textiles regarded as waste

How is import or export regulated in national legislation supplementing the EU Regulation on transboundary shipments of waste? When is textile waste considered a waste belonging to the green list or waste subject to notification?

Import and export of waste is regulated through the EEA Agreement and the Basel Convention.

Import and export of wastes are regulated in accordance with EU rules which are transposed in the Waste Regulations, and in particular Chapter 13. The latter also includes transposition measures for the OECD-decision and the UN Basel Convention.

The regime is similar to the EU Regulation.

#### Used textiles trade (when destined for second hand sale)

How is the commercial exchange (import/export) of used textiles and the non-commercial exchange (charity) of used textiles regulated?

Trade in used clothing is a large industry, domestically and globally. Most parts of exports cover clothes and used textiles. There are both charity and commercial trade activities, but the legislation does not provide for a different regime.

Export and import of textiles which are not considered as waste fall outside the scope of application of the legislation for import and export of waste, i.e. Waste Regulations Chapter 13.

If, after that textile waste has been sorted, a remaining portion is considered as re-usable, the export of that latter portion will not be considered as export of waste.

The attachment # 1 to this template "Criteria for collectors seeking certification for collection of textiles aimed for reuse and textile waste" is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?

By dealing with collected textiles for re-use and textile waste in a joint manner, the criteria create difficulties as it may lead to the qualification of all collected textiles as textile waste. See answer to question 1. This may create unnecessary difficulties for the collection of textiles for re-use (permits from the municipality, commercial agreements, etc.).

Criterion 1.2: This requirement extends widely the information obligation of the collector. It may to a certain extent be able to justify such requirement if the collector is operating under public procurement rules, but it will be more difficult to justify it for the purpose of charity.

Criterion 2.2 will be difficult to implement for two reasons: 1/ If the collector is collecting textile waste as part of the household wastes and under a contract with the municipality, it fulfills the municipality obligation to collect household waste and it would not be possible to make a distinction, except if explicitly allowed in the legislation ; 2/ It may not be possible to operate such distinction for practical reasons.

Criterion 2.3: By accepting all textiles, it may entail that the operation of collection is automatically qualified as household waste collection. Related obligations, including permitting, will then apply.

Criterion 5.1: This is mostly an issue of EU internal market/internal trade law, and depends on the classification of the exported textiles (textile waste or textiles for re-use).

Criteria 6.2 / 6.3 and 6.4: It is possible to justify the definition of a collection target under Norwegian legislation, but it must be defined more precisely. The scope of application of the measure is not specific enough.

Criterion 6.5: This requires a common definition of the concept of "textiles". Reference to classification table number (waste list or customs list) should be included.

Criterion 7: All depends on the intended activities of the collector. If the collector is collecting textiles qualified as household waste, it will probably need to have a more commercial legal status than a charity organizations. Charity organization or foundations have to be registered in the national registry, depending on their legal capacities (registration to the Frivillighetsregisteret, Stiftelsesregisteret, etc.) on Altinn.no

The attachment # 2 to this template "Criteria for collectors seeking certification for collection of textiles aimed for reuse only" is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?

General comment: As the commercial interest for textile collector is growing and may be growing even further in the future due to the interest created by certification, it may be necessary to define more precisely the status of the "collector". The identity of the collection in the case of municipal waste is easily identifiable, since it is the municipality. The same applies for commercial entities, when they manage their own textile volumes. When collected textile is for re-use, the identity of the collector is further defined in the legislation. This lack of definition may create implementation challenges for the application of the criterion (for charity or commercial purposes).

General comment: The regime for compliance for the implementation of those criteria must be assessed further. The different competent authorities responsible in the matter – be it the Environmental Agency, the Environmental Agency, the County Governor or the Municipality – only have a general competence. The compliance regime should be made explicit for the different situations (depending on the nature of the collector and the waste collected).

General comment: the criterion seems to be limited to household textiles for re-use and charity organisation. Such delimitation may exclude important volumes of textiles for re-use (e.g., from commercial entities).

#### References

Please list relevant literature, including reports, articles etc. which describes the legal issues dealt with above. Please include a link where possible.

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Østfoldforskning, Løsninger for utvidet produsentansvarssystem (EPR) for tekstiler i Norge – Rapport fra kvalifiseringsprosjekt, rapportnr. OR.20.16, ISBN 978-82-7520-753-9, 3 October 2016

Statens institutt for forbruksforskning (SIFO), Potensiale for økt materialgjenvinning av tekstilavfall og andre avfallstyper (papir/papp, metall og glass), Fagrapport nr.2-2012, ISSN: 1520-6760, ISBN: 978-82-7063-437-8, Oslo

[http://www.sifo.no/page/Publikasjoner/Prosjekter\\_detaljer/10081/78453.html](http://www.sifo.no/page/Publikasjoner/Prosjekter_detaljer/10081/78453.html)

Statens forurensningstilsyn (SFT), Dispensasjon fra forbudet mot deponering av nedbrytbart avfall, Veiledning til fylkesmennene om saksbehandling av søknader om midlertidig dispensasjon, Rapportnr. 2463, 2009.

Please list the relevant legislation in full including an active link to the legal document in question.  
Please indicate in brackets and using key words what the listed legal document regulates.

Consumer Protection Act – Forbrukerkjøpsloven (consumer information, consumer protection)

<https://lovdata.no/dokument/NL/lov/2002-06-21-34>

Environmental Information Act – Miljøinformasjonsloven (environmental information)

<https://lovdata.no/dokument/NL/lov/2003-05-09-31>

Public Procurement Act – Lov om offentlige anskaffelser (public procurement rules)

<https://lovdata.no/dokument/NL/lov/1999-07-16-69>

Pollution Control Act – Forurensningsloven (pollution control)

<https://lovdata.no/dokument/NL/lov/1981-03-13-6?q=Forurensningsloven>

Pollution Control Regulations – Forurensningsforskriften. Implementation Act of the Pollution Control Act. (pollution control, ...)

<https://lovdata.no/dokument/SF/forskrift/2004-06-01-931?q=Forurensningsforskriften>

Product Control Act – Produktkontrollloven (product content, product labelling)

<https://lovdata.no/dokument/NL/lov/1976-06-11-79?q=produktkontrollloven>

Waste Management Regulations – Avfallsforskriften (waste management)

<https://lovdata.no/dokument/SF/forskrift/2004-06-01-930?q=Avfallsforskriften>

Webpage of Miljødirektoratet on textile, general page on environmental protection, including textile components. Not targeting textile waste as such:

<http://www.miljodirektoratet.no/no/Tema/Kjemikalier/Produkter/Tekstiler/>

Webpage of Miljødirektoratet on the Nordic Textile Strategy, including labelling initiatives:

<http://www.miljodirektoratet.no/no/Nyheter/Nyheter/2015/Mars-2015/Gamle-tekstiler-bor-fa-nytt-liv/>

## 5.4 Sweden

Legal Expert:

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### Legal definition of used textiles

Re-use is "any operation by which products or components that are not waste are used again for the same purpose for which they were conceived", cf. Framework Directive on Waste Art. 3(13). Would there be any supplementary national regulation that is applied to define used textiles as a product for re-use under national law?

The term waste is defined as "any substance or object which the holder discards or intends or is required to discard", cf. Framework Directive on Waste Art. 3(1). Would there be any supplementary national regulation that is applied to define when used textiles are regarded as a waste under national law?

Ch 15, §4 in the Swedish Environmental Code (SEC) defines re-use almost in the same way, i.e. as something that is not waste is used again to fulfil the same function as it was originally meant for. This does not mean that the function must be identical to the original, but it should essentially correspond to the original function. Re-use aims, among other things, to reduce the amount of waste generated, by the fact that something that is not waste are used again, i.e. re-use function as a waste prevention measure. The definition of "waste" is decisive for what is seen as re-use. Something that is waste can not be reused until it has been recovered, and thus has ceased to be waste (prop. 2015/16:166, p. 62). Re-use of waste is not as such specifically regulated in the SEC. An overall rule of consideration in the SEC (Ch 2, §5) is to reduce waste (see more in prop. 2015/16:166, p. 37). This is a substantive rule applicable to all measures that have a real impact on the goal of a sustainable development. An application for a permit shall in accordance with Ch 22 § 1 SEC include a description of the conditions to prevent waste. If something is classified as waste, another overall rule of consideration is to prepare it for re-use (Ch 15, §10, a waste hierarchy). "Preparing for re-use" is a recycling operation that falls within the scope of the waste chapter (15) in the SEC.

Waste is defined in the same way in Swedish law (Ch 15, §1). The disposal purpose is decisive and has to be decided in each individual case. There are also some facilitating assistance rules defining by-products.

"A substance or object shall be deemed to be a by-product rather than waste, if the substance or object

1. has arisen in a production process where the main objective is not to produce the substance or object;
2. can be used directly without any other processing than the processing that is normal in industry practices, and

3. will continue to be used in a way that is health-and environmentally acceptable and which are not contrary to law or regulation;

If these criteria (which are cumulative) are met, one can presume that the holder does not intend to “discard” property. No special attention to textile otherwise. Furthermore, there are no “end of waste” criteria specifically dealing with textile in Swedish law.

#### **The competent authority**

Who has under the national legal framework the competence to determine whether an item is waste or not, including the classification of waste as eligible for reuse (second hand sale), recycling, energy recovery or final disposal (landfilling/incineration)?

In general, the law-maker decides when for example issuing regulation on producer responsibility. The Swedish Environmental Protection Agency issues guidelines (see e.g. NFS 2004:14).

The courts in each individual case, see e.g. MÖD 2012:49 (question whether fruit and vegetables from a grocery store is similar to household waste) and MÖD 2014:1 (sulfide containing soil has been regarded as waste).

The European Court of Justice is the final interpreter of EU waste definition and there is no scope for national clarifications which do not have their basis in EU law. (Prop. 1997/98:45 del 1, p. 423 and prop. 2015/16:166, p. 44).

Further comments:

Indirectly, municipalities should have influence even on the question of when waste is eligible for recycling, energy recovery etc, since they are responsible for detail plans, building permits (for establishments that receive waste), waste management plans etc., see more below under collection of textiles.

#### **Disposing of used textiles**

Describe how the disposal of used textiles is regulated? Who is responsible? Is there under the current regulation a distinction between the responsibilities in relation to commercial disposal and the disposal of household wastes?

A general rule on responsibility in Ch 15 §11 SEC: The holder is responsible. The *rules of considerations* in ch. 2 SEC are applicable if for example the handling of textiles has impacts on health or environment (for example handling of re-used textiles with hazardous chemicals). In each case, different precautionary requirements can be set and enforced by other rules on supervision and punishment.

### Commercial disposal

There is no producer responsibility for textiles in Sweden. Operators are responsible for their own waste (that does not constitute “household waste”). Ch 15, § 11 SEC.

Disposal of household waste: Municipalities are responsible for household wastes, 15:20 SEC. They can hire someone else to do it on their behalf.

Municipalities shall also collect and transport household waste which is hazardous waste to a treatment facility, unless otherwise prescribed in regulations on producer responsibility, § 35 Swedish regulation (2011:927) on waste. The distinction between operators’ and municipalities’ responsibility is dependent on the definition of household wastes. Household waste is defined as waste coming from households and thus similar waste from other activities, such as waste that occurs when land and buildings are used as dwellings. Ch. 15 § 3 SEC. The latter can be waste from e.g. commercial premises and factories due to people staying there – for example food waste that occurs in the lunch room at a workplace (NV-06147-14, p. 27).

### Further comments

In general, textiles waste should belong to the category of household waste.

#### The collection of textiles

How is the collection of used textiles regulated? If there is no specific regulation of the collection of textiles then how is used clothes disposed of in practice and according to which criteria if any (try to give a general view – we recognize that this may be regulated differently in different cities, municipalities etc.)? Is there a regulatory distinction between commercial textiles and households?

No specific regulation for collecting textiles in general. There is a duty to notify the County Board for collecting waste professionally, (§ 46 Swedish regulation on waste) and one has to get a permission before transporting waste professionally, (the one that gets such a permission does not have to notify for collecting, (§ 36 and §46 Swedish regulation on waste).

Each municipality has a large autonomy to design their local regulations on the waste sector, but it is required to have a sanitation scheme (renhållningsordning) and a waste plan, see above.

Each municipality shall give the one that gives rise to household waste opportunity to sort out the combustible waste from waste that is not combustible and other combustible waste that in sorted fractions constitute hazardous waste, (NFS 2004:4, § 6).

A municipality may provide for the waste categories, which fall within the notion of household waste and which is part of the municipality’s responsibility for waste management, to be sorted out if the municipality has organized collection systems for waste. For example, the municipality may provide that the textile waste should be sorted out and sent for recycling at a recycling centre if the municipality has organized collection systems for textiles in this way (§ 74 Swedish regulation on waste, see also Swedish Association of Local Authorities and Regions (Sveriges kommuner och landsting, SKL) draft documents for municipal waste regulations).

## Further comments

In practice, there are several voluntary organisations that are collecting clothing.

### The collector

How is the collector regulated when the used textiles are for re-use (second hand sale)? How is the collector regulated when the used textiles are regarded as waste? Is there a distinction between commercial textiles and the textiles deriving from households? Would there be any registration or permitting requirements? Or educational requirements targeting the waste collector? Would there be any issues in relation to competition law, including public procurement requirements?

Textile for re-use (Second hand sale): Can not find any specific rules. The *rules of considerations* in ch. 2 SEC are applicable if for example the handling of textiles has impacts on health or environment (for example handling of re-used textiles with hazardous chemicals). In each case, different precautionary requirements can be set and enforced by other rules on supervision and punishment. Handling of products that are not waste falls outside the scope of waste legislation.

If the textiles are subject to recovery (colouring and pretreatment) there would be no "pure" collector anymore. Instead we should have a manufacturer or producer and the recovery will trigger permission or notification depending on, among other things, the amount of clothing, according to chapter 6 in the Swedish regulation (2013:251) on environmental assessment (miljöprövningsföreläggningen)

Textiles regarded as waste: Chs. 2 and 15 SEC and § 36 and §46 Swedish regulation on waste, see above. There are some educational requirements in § 38 Swedish regulation on waste:

Authorization under § 36 shall be granted only if the applicant has

1. the human, technical and financial conditions to from a health and environmental point of view adequately carry the waste referred to in the application, and
2. the permits required for activities under other legislation.

Examples of different laws and rules that apply in parallel with waste regulations:

- Swedish Civil Contingencies Agency provisions on carriage of dangerous goods by road and in terrain (MSBFS 2015:1).
- The Act (2006:263) on the transport of dangerous goods and the regulation (2006:311) on the transport of dangerous goods.
- Any local transport regulations may apply to transports of hazardous waste and/or hazardous goods. These regulations vary in different municipalities and counties.
- If the transport includes waste types involved in the municipal cleaning monopoly, as it would be here, it is necessary to get a municipal consent.

Do municipalities have some procurement rules to follow when they hire transports of waste?

According to the Swedish law (2007:1091) on public procurement, contracting authorities are required to treat suppliers equally and without discrimination and to implement procurement in a transparent manner. Furthermore, principles of mutual recognition and proportionality must be respected. Contracting authorities should take environmental and social considerations into account regarding public procurement if the type of procurement justifies it, (§§ 9 and 9a).

#### **Obligations when the textiles are collected**

Would there be any requirements to the sorting and temporary storing of textiles for re-use or textiles regarded as a waste?

Sorting textile for re-use: No specific obligations as far as I can see, besides the general rules of considerations in ch 2 SEC (see above).

Sorting textile waste: A duty to notify (the municipality) or a duty to get a permission (from the County Administrative Board) depending on quantity, ch. 29 §6 and 7 the Swedish regulation (2013:251) on environmental assessment, (miljöprövningsföreläggningen, MPF)), the general rules of considerations in ch 2 SEC are applicable.

Storing textile for re-use: No specific obligations as far as I can see, besides the general rules of considerations in ch 2 SEC (see above).

Storing textile waste: A duty to notify (the municipality) or a duty to get a permission (from the County Administrative Board) depending on quantity, 29:1 och 2 MPF. The general rules of considerations in ch 2 SEC are applicable.

#### **Take-back schemes**

Would it be possible under the current regulation to establish or have a producer responsibility scheme?

If there is no system for textile waste, would there then be a system for other waste types, which could be applicable to textiles?

There is a mandate in ch. 15 §§ 12 and 13 SEC for the Swedish government to issue rules on producer responsibility for *waste*. Currently (2016) there are rules on producer responsibility for eight types of products: recycled paper, tyres, electrical equipment (which include light bulbs and light fittings), packaging, cars, radioactive products and orphan radiation sources, batteries and medicines.<sup>31</sup> Textiles are under discussion (see NV-06147-14, p. 82 and NV-00336-13, p. 44).

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<sup>31</sup> Förordningen (2014:1074) om producentansvar för returpapper, förordningen (1994:1236) om producentansvar för däck, förordningen (2014:1075) om producentansvar för elutrustning, förordningen (2014:1073) om producentansvar för

## Further comments

I do not think any of the current producer responsibility system fit well to textiles.

### Traceability

Would there under the current regulation be an existing system for tracing textile waste from collection to the final handling of the waste? Would this also include used textiles destined for second hand sale? If there is no system for textile waste, would there then be a system for other waste types which could be applicable?

Municipalities waste management plans shall include details of the waste (not just household waste) within the municipality and municipal actions to reduce the quantity and hazardousness, (ch 15 § 41 SEC, see above and also §§ 74–75 Swedish regulation on waste). And there is a mandate for Swedish Environmental Protection Agency to issue further provisions in § 77 Swedish regulation on waste.

A waste management plan shall include where waste is generated, collection system, collected waste quantities and how this waste is recovered or disposed of, (NFS 2006:6, § 3). The plan shall also include information on permitted or notified (in accordance with MPF) facilities for recycling and disposal of waste that can be found in the municipality. For each facility shall be indicated, inter alia, Type/types of waste that are managed, methods of recovery or disposal, capacity (tons/year) and a total of received amounts of waste (tons/year), (NFS 2006:6, § 5) must inter alia be indicated for each facility.

### In the frame of a producer responsibility system

A producer is defined as the one who professionally manufactures, introduces or transfers a product to Sweden or as the one who in his professional activity generates waste that requires special measures of sanitation or of environmental reasons, ch. 15 §9 SEC. So in that sense a collector for re-used textiles should belong to the category of producers. But a producer responsibility system as such can only be issued for waste, see ch 15 § 12 SEC.

If a producer responsibility system would be issued for textile waste, it is also possible to provide for product labelling, information on recyclability etc. It is also possible to issue requirements for producers to ensure that the goods have a specific composition, recyclability and recoverability. But the latter must not contradict obligations that are required as a result of Sweden's membership in EU, ch 15 § 13 SEC.

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förpackningar, förordningen (2007:185) om producentansvar för bilar, förordningen (2007:193) om producentansvar för vissa radioaktiva produkter och herrelösa strålkällor, förordningen (2008:834) om producentansvar för batterier samt förordningen (2009:1031) om producentansvar för läkemedel.

#### **Reporting on textile waste quantities and types**

Who is responsible and for what?

No specific rules for textile waste. Municipalities are responsible for reporting household waste in the frame of the sanitation schemes and waste plans. A waste management plan shall include details of the waste (not just household waste) within the municipality and municipal actions to reduce the quantity and hazardousness, (ch 15 § 41 SEC, see above and also §§ 74–75 Swedish regulation on waste). And there is a mandate for Swedish Environmental Protection Agency to issue further provisions in § 77 Swedish regulation on waste.

Several of the producer responsibility regulations have reporting requirements, see for example regulations on producer responsibility for recycled paper and cars.

Specific requirements on keeping notes for collectors and transporters of hazardous waste in §§ 55–59 Swedish regulation on waste.

#### **Import or export of used textiles regarded as waste**

How is import or export regulated in national legislation supplementing the EU Regulation on transboundary shipments of waste? When is textile waste considered a waste belonging to the green list or waste subject to notification?

Waste subject to notification may be imported or otherwise introduced to Sweden only if the person entering the waste can show that the waste will be taken care of by someone who has the permission to handle the waste or has made the notifications required, § 65 Swedish regulation on waste. Swedish environmental protection agency is the competent and correspondent authority and it must notify the relevant County board and the Municipal board that fulfil tasks in the field of environmental and health protection, §§ 66 and 67 Swedish regulation on waste. The operational supervisory authorities shall consult the Swedish Customs and Excise Department in matters relating to the supervision that the EU regulation is followed § 85 Swedish regulation on waste. Penalty rules in ch 29 § 4a SEC.

Swedish environmental protection agency sees transports of textiles waste as waste belonging to the green list, (NV-06147-14, p. 24).

#### **Used textiles trade (when destined for second hand sale)**

How is the commercial exchange (import/export) of used textiles and the non-commercial ex-change (charity) of used textiles regulated?

No specific rules for used textiles trade as far as I can see.

The attachment # 1 to this template "Criteria for collectors seeking certification for collection of textiles aimed for reuse and textile waste" is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?

Can not see any breaches of provisions in our national legislation.

The attachment # 2 to this template "Criteria for collectors seeking certification for collection of textiles aimed for reuse only" is intended to be used as part of a certifications system. Is the certifications system in breach of any provisions of your national legislation? Please refer to the account above in case the issue is already covered. Consider in particular whether collectors need to obtain a permit or the like to fulfill the requirements under the certification scheme? Which criteria do the collectors need to fulfill to obtain the permit? Which authority issues the permit etc.?

Can not see any breaches of provisions in our national legislation.

Please list relevant literature, including reports, articles etc. which describes the legal issues dealt with above. Please include a link where possible.

Michanek och Zetterberg, Den svenska miljörätten, lustus, 2012.

Naturvårdsverkets rapport "Förslag till etappmål Textil och textilavfall", NV-0336-13

Naturvårdsverkets skrivelse "Förslag om hantering av textilier – Redovisning av ett regeringsuppdrag", NV-06147-14

Prop. 2015/16:166 Avfallshierarkin

Prop. 1997/98:45 Miljöbalk, del 1

"UTKAST – remissversion – av underlag för renhållningsordningens avfallsföreskrifter Sveriges Kommuner och Landsting och Avfall Sverige 2016-06-22

<https://skl.se/download/18.6ee610e515505b6272db0292/1466674757286/Utkast+underlag+f%C3%B6r+kommunala+avfallsf%C3%B6reskrifter+2016-06-22.pdf>

Please list the relevant legislation in full including an active link to the legal document in question. Please indicate in brackets and using key words what the listed legal document regulates.

Miljöbalken (1998:808) Swedish Environmental Code, SEC

Avfallsförordningen (2011:927) Swedish regulation on waste

Lag (2007:1091) om offentlig upphandling, Swedish law on public procurement

Miljöprövningsförordningen (2013:251), Swedish regulation on environmental assessment

Naturvårdsverkets föreskrifter och allmänna råd om hantering av brännbart avfall och organiskt avfall, NFS 2004:4

Naturvårdsverkets allmänna råd till avfallsförordningen (2001:1063) avseende farligt avfall, NFS 2004:14

Naturvårdsverkets föreskrifter och allmänna råd om innehållet i en kommunal avfallsplan och länsstyrelsens sammanställning, NFS 2006:6

Naturvårdsverkets vägledning vid tillsyn och bedömning av om insamlade textilier är avfall:  
<http://www.naturvardsverket.se/Stod-i-miljoarbetet/Vagledningar/Avfall/Textilavfall/>



Nordic Council of Ministers  
Nordens Hus  
Ved Stranden 18  
DK-1061 Copenhagen K  
[www.norden.org](http://www.norden.org)

The Nordic textile reuse and recycling commitment –  
a certification system for used textiles and textile waste

“The Nordic textile re-use and recycling commitment”  
certification aims to decrease the environmental impact of  
textile consumption and to strengthen the competitiveness of  
the Nordic region by increasing re-use and recycling of textile  
waste generated in the Nordic countries. The certification  
system is voluntary, and ensures sustainable and transparent  
handling of used textiles.

The certification system assures that certified organizations  
follow strict criteria on traceability and environmental  
performance when collecting and handling textiles. The  
collected textiles will be re-used and recycled in accordance  
with the waste hierarchy, and all operations are reviewed by an  
independent third party.

There are two types of certification. The first is for collection of  
textiles aimed for re-use only, and the second for collection of  
textiles for re-use and textile waste for recycling.



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