# Destruction of Unsold Textiles – Questionnaire

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| Subject | Answers |
| 1. The term “textiles” is too general for the purpose of defining a prohibition of destroying unsold textiles. Which product categories would you expect being in scope or explicitly out of scope of a prohibition of destroying unsold textiles? For which reason?
 | FEAD sees a possible ban on textile destruction in the Ecodesign Regulation critically. FEAD welcomed this Regulation to introduce ecodesign requirements on recyclability and recycled content in products. However, such ban does not strictly represent an ecodesign requirement, so that the thematic reference is not clearly recognisable. In addition, a ban on textile destruction entails the risk of a shift of responsibility from producers to waste management companies by leaving the corresponding goods to them for further ‘use’. This should be clearly rejected, since producers and traders, but not waste management companies, should be the addressees and obligated parties of a textile destruction ban.In relation to the term ‘textiles’, FEAD stresses the need to ensure an alignment of definitions, especially with the Waste Framework Directive. |
| 1. The term “textiles” is rather broad and indefinite to define a prohibition of destroying unsold textiles;
2. Which existing classification system would allow economic operators best to comply, i.e. exactly defining which products / subcategories are in or out of scope of such a prohibition of destruction?
3. Do you think that Regulation 26587/87 on the tariff and statistical nomenclature and on the common customs tariff would be practicable to clearly define the scope? If not, why?
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| 1. For example, Regulation 26587/87 on the tariff and statistical nomenclature and on the common customs tariff includes in the section “textiles and textile articles” also items beyond apparel like blankets, bedlinen, curtains, tents etc.

 Do you think that such product categories should also be covered by the scope of a potential prohibition of destruction of unsold textiles? Why or why not? | The recycling potential of these products/materials must be considered.  |
| 1. On the other hand, in Regulation 26587/87 on the tariff and statistical nomenclature and on the common customs tariff, footwear or other articles of apparel and clothing accessories (like gloves or belts) are not covered under the category of “textiles” but in a different section.

Do you think that such product categories should also be covered by the scope of a potential prohibition of destruction of unsold textiles? Why or why not?  |  |
| 1. under what conditions are (or feel) economic operators legally obliged to destroy unsold textiles (e.g. health or safety reasons)?
2. Can you specify these conditions as clear as possible?
3. Are you aware of any further reasons for unavoidable destructions?
4. Which regulations apply to substantiate that these textiles legally have to be destroyed?
5. Would also a rectification of the product be possible to avoid final destruction (e.g. hygienic treatment in case of a bacterial infestation of textiles)?
 | Without entering into (possible) legal obligations/prohibitions to destroy (unsold) goods, it must be noted, that where the holder of the goods decides to discard them as waste, whether required or not (‘waste’ means any substance or object *which the holder discards or intends or is required to discard*), (waste) operators have a legal obligation to treat them as waste in line with the EU environmental and waste legislation. After collection and sorting of the waste, this can be either prepared to be re-used, recycled/recovered or disposed depending on the situation. |
| 1. Which other situations should in your view be exempted from a prohibition of destruction of unsold textiles (e.g., exceeding other legally defined minimum standards, being not health or safety relevant)? Why? How could such exemptions be operationalized to allow clear conformity to economic operators?
 | Another example are fake products threatening brands. These fake products can be recycled instead of being *destroyed*. |
| 1. Discarding for the purpose of “recycling” might be seen by some stakeholders as “destruction” of unsold textiles (potentially prohibited in future), by other stakeholders as a measure of circular economy. There are different recycling techniques and qualities in place (e.g., downcycling, fibre-to-fibre recycling).
2. Which kind of recycling techniques should fall under a potential ban of destruction, and which should be still allowed? Why?
3. In which way must such a differentiation be operationalised so that economic operators and recyclers can comply?
 | 1. Recycling cannot be understood as destruction as the legal definition is very clear, meaning a *recovery operation by which waste materials are reprocessed into products, materials or substances*. Recycling is thus the recovery of materials to put them back in the economy and not a destruction process of products. There is a clear difference between recycling and energy recovery and disposal that has failed to be recognized and/or to be acknowledged.

In addition, there is no legal differentiation in recycling techniques that favours one over others and this should not be introduced because this is a market regulation that will distort competition.Regarding property rights, it is questionable whether a ban on destruction can be justified from an environmental point of view, if the definition of ‘destruction’ is also to include recycling. 1. In any case, the responsibilities of a possible incompliance must be very clear. Such responsibility cannot fall on the waste operators but must be on the producers of the goods and/or the producers of the waste as we will not be able to assess the status of each good individually once received. The person (legal/physical) that intents to discard the goods is the only one that can and should certify whether the goods were unsold and fall under the potential destruction ban and should therefore be the only one to determine and be responsible for deciding upon the management of such goods.

This applies also to possible exemptions to a potential prohibition to *destroy* unsold goods. The responsibility of possible incompliances linked to these exceptions (fraud) cannot fall on the waste operators.  |
| 1. Prohibition of destroying unsold textiles might lead to an increase in donations requests by economic operators to keep those textiles in a circular loop.
2. How can organisations be clearly identified as “social organisations” to whom economic operators will be allowed to donate their unsold textiles (and to avoid circumvention)?
3. How can social organisations clearly differentiate between “unsold” and “used” textiles? What are reasons why social organisations might refuse the acceptance of donations of unsold textiles? Which of these reasons might be acceptable so that economic operators - after this refusal - will have to destroy those textiles?
4. Which conditions would have to be specified / operationalised how for economic operators as well as for social enterprises to allow applicability and to avoid circumvention in the system of donations?
 | If recycled, the textiles will be kept in a circular loop anyway.1. Such social organisations should have the legal status of a non-profit organisation or co-operative with a social object according to their statutes. Nevertheless, it must be noted, that the word ‘donation’ does not necessarily need to be followed by the word ‘social’!

In fact, FEAD warns the EU legislator that the promotion of specific enterprises (‘social enterprises’) distorts the market and puts at risk the quality of the handling of the donated products. The risks increases when there is no definition of ‘social enterprises’ and in general no means to avoid loopholes by which any actor can become a ‘social enterprise’ not subjected to the strict EU product and environment legislation.A ‘donation’ implies that somebody receives the textiles free of charge whereas waste management is a professional service to producers. If the intention is to avoid overproduction, instead of donating or destroying, producers could be obliged to take back their bad or unsold products and to re-introduce them into their production cycle.In addition, FEAD would like to stress that ‘preparation for re-use’ is also a waste management activity in line with the waste hierarchy. To ensure a level playing field and the environmentally sound management of the (donated) goods (waste), only permitted companies can be allowed to treat it in line with EU legislation. The role of professional waste actors must be safeguarded. Promoting donations to ‘social enterprises’ instead of professional waste management companies does not ensure the environmentally sound and qualitative management of waste textiles but jeopardises traceability (including unregulated shipments as ‘second hand goods’).1. Again, this differentiation must be determined upon responsibility of the producers of the goods and/or the producers of the waste (please see answer to question 7 b).
2. The definition of waste is crucial (being discarded as such in line with Art. 3 paragraph 1 Waste Framework Directive). As soon the goods have a waste status only permitted operators can be allowed to handle them.
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| 1. What would be the economic impact on economic operators of a ban on destruction if put in place for textiles?
2. What are the approximate storage costs for unsold textiles? (Per ton)
3. What would be the administrative costs of reporting obligations as described under article 20 of the proposed ESPR regulation?
4. Which further costs would arise for economic operators due to a ban of destruction?
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| 1. Do you have quantitative data on the amount of unsold textiles being destroyed? (Post July 2022 figures if you have them; and/or broken down to specific product categories to allow defining the scope or exemptions from the scope)
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| 1. Further contacts / information sources
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