7. Extended Producer Responsibility

1. Each Party shall establish, in policy and law, Extended Producer Responsibility (EPR) systems with statutory force, and of national scope, covering the products contained in Part 1 of annex D.

2. The EPR systems are to be based on the modalities in Part 2 of annex D which reflect the specificity of the products and mechanisms, and taking into account the different circumstances and capabilities of the Parties, as set out in Part 3 of annex D. Parties are strongly encouraged to extend the application of their EPR systems to products of the type laid down in Part 1 of Annex D which are made from materials other than plastic.

3. The EPR systems shall ensure that producers cover the range of costs set out in Part 4 of annex D with a view to achieving improved collection rates and higher recycling rates (in line with targets set out in Part 3 of annex D), and addressing problems of littering (see also Measure 8). Systems should also consider incentivising increased recyclability, or product longevity as appropriate in accordance with Part 2 of Annex D.

4. Parties shall, in implementing this provision, take into account how the measures taken would contribute to a just transition [LINK TO OTHER CLAUSES].

5. Each Party shall ensure that all fees collected from producers (directly or indirectly) under EPR systems are used solely for the purposes of paying for the services whose costs the fees are intended to cover (accepting the need for reasonable administrative costs to be covered). This is without prejudice to the right of each Party to levy, separately, taxes on the producers of plastics and plastic products as deemed appropriate to meet the objectives of this Treaty, or for other purposes deemed relevant by the Party.

6. The measures introduced shall be described in the national plan communicated pursuant to [Part IV.1 on national plans], and their performance monitored in line with [CROSS REF Part IV] using methodologies consistent with Part II 9 (X – see below).

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Annex D

Part 1 of annex D

Scope of EPR – which product types, e.g.; Packaging; Waste electrical and electronic items (including cabling); Textiles / Shoes; End of life vehicles; disposable items not covered by
Measure 3a or the above (toothbrushes, household goods / utensils, toys);

wastes from construction and demolition

Part 2 of annex D

Modalities for EPR (with specific adaptations / variants according to product type, and according to mechanism (such as where a Deposit Refund System (DRS) is used)).

I would suggest that there is a ‘core’ set (requirements), as well as ‘nice-to-haves’ (fee modulation would be in the latter – it is virtually impossible to include this in an international Treaty in the ‘harmonising way’ some producers suggest they would like) which Parties would be encouraged to consider.

Core 'requirements':
1. Fees are set in relation to the costs incurred by the products / packages used, unless they are being modulated. Where fees are modulated, they should be modulated based in the first instance on the cost recovery principle;
2. The fees are paid to a single entity which then disburses funds to municipalities (or other collectors) in lieu of the costs to be covered by the scheme. These costs may be identified through activity based costing, or other measures, which identify the efficient cost of service delivery.
3. The responsibilities of different actors – notably, municipalities and producers - are made clear, and rendered consistent with what is in waste management and local government legislation. In particular, it shall be clear who has operational responsibility for waste throughout the supply chain, and it shall be clear who is responsible for covering the costs of different steps in that supply chain.
4. The financial transactions of the entity must be transparent, and all funds must be spent on activities whose costs are to be covered by the scheme with a view to delivering services in an efficient manner.
5. If the responsibility for meeting targets lies with producers, then producers must have the ability to influence the performance outcomes of the scheme themselves. For example, if producers are not responsible for waste collection themselves, the collection service for which they are paying must be specified with the intention of meeting targets. If they are not responsible, operationally, for sorting or collection, then it should be considered whether it is reasonable for producers to have responsibility for meeting targets.

Part 3 of annex D
Table for each product of:

• Collection rate
• Recycling rate

Part 4 of annex D

Scope of cost coverage (by product type) – including litter clean-up costs

Also, principles for allocation of costs to sub-categories of the identified products