

Mitumba Consortium Association of Kenya (MCAK) Policy Statement on Extended Producer Responsibility (EPR) Fees and the Impact on the Second-Hand Clothing Trade

The Mitumba Consortium Association of Kenya (MCAK) recognises the importance of sustainable waste management and responsible environmental stewardship in line with Kenya's Vision 2030 and the African Union's Agenda 2063. We wish to express significant concerns regarding the proposed Extended Producer Responsibility (EPR) fees, particularly in light of discussions suggesting the inclusion of EPR fees on second-hand clothing imported into Kenya. Our primary apprehension lies in the potential unintended consequences such measures could have on the second-hand clothing (Mitumba) trade.

Let us be clear: Imposing EPR fees on second-hand clothes would be a serious mistake. The trade in second-hand clothing for reuse has clear environmental and socio-economic benefits for Kenya. Applying EPR fees on Mitumba would act as a second import tariff on Mitumba and risk the financial viability of the trade.

The proposed Kenyan Extended Producer Responsibility (EPR) policy introduces a mandatory fee of Ksh 150 per item for various product categories, including textiles and clothing. Should the fee be implemented for Mitumba, this fee would then be applied per item at the point of importation, meaning that second-hand clothing (Mitumba) brought into the country would attract this charge, significantly increasing costs for traders and consumers, many of whom rely on second-hand clothing as an essential source of affordable clothing.

The intended purpose of EPR fees is to address the damage to the global environment of fashion production. Fees should therefore apply to producers and manufacturers of textiles, wherever in the world that may be and especially fast fashion. In the Kenyan context, if EPR fees are being introduced as an import tariff then they should apply to the importation of new clothes. It is illogical to apply EPR fees to secondhand clothes which embody the global circular economy. For example, reusing 600 kg of clothing can save approximately 3.6 billion litres of water and avoid over 1,800 kg of CO₂ emissions . A single reused t-shirt saves more than 3 kg of CO₂, making reuse 70 times less environmentally damaging than producing new clothing. Producing a single cotton T-shirt requires 2,700 litres of water, while the purchase of 100 second-hand garments saves the production of 60-85 new garments. SHCs extend the lifespan of garments and delay their entry into waste streams.

Far from being subject to EPR fees, reuse operators, upcyclers and recyclers should be the beneficiaries of EPR fees to nurture sustainability and tackle textile waste.

Key concerns in case EPR fees were to be applied to second-hand clothes

1. EPR Fees as a De Facto Second Import Tariff on Mitumba

The proposed EPR fees, which apply at the point of importation, would risk becoming a de facto second import tariff if it were applied to second-hand clothing. Given that the Mitumba trade already contributes Ksh 12 billion annually (2022) in import duties and sustains approximately 2 million jobs, the additional costs of double-counting could:

- Increase the price of second-hand clothing, reducing affordability for over 20 million Kenyan consumers.
- Disrupt livelihoods by adding financial strain on small-scale traders, many of whom are women and youth.
- Encourage smuggling and informal trade, leading to a loss of government revenue.

MCAK urges policymakers to carefully assess the potential economic impact and consider alternative policy mechanisms that support environmental goals without undermining an essential sector of the economy.

2. Need for Proportionality and Fairness in EPR Fees

While new clothing brands and manufacturers have clear product responsibility obligations due to their extractive and resource-intensive production, second-hand clothing is part of a circular economy model that extends the life of garments. Applying EPR fees to Mitumba as well as new clothing raises fairness concerns, as:

- Mitumba extends a garment's life by giving clothes a second life.
- Unlike new clothing manufacturers, Mitumba traders are not involved in original production and packaging.
- The Mitumba trade already plays a role in waste reduction by keeping clothes in circulation longer.

3. Lack of Clarity in the Gazette Text and Potential Conflict with Existing Legislation

The current gazette proposal refers only to 'textiles' without distinguishing Mitumba, thus creating ambiguity about its applicability to Mitumba. Further, Clause 18 (b, c, e and f) introduces variables which are not applicable to Mitumba imports which all undergo an existing thorough sorting process before arrival in Kenya, implying that the gazette is not applicable to Mitumba. In addition, The Sustainable Waste Management (SWM) Act 2022 establishes the precedent of recognising reusable items and their positive environmental benefits. It would be illogical to introduce a gazette that applies EPR fees to second-hand clothes, thus contradicting The Sustainable Waste Management Act 2022.

4. Need for Appropriate Public and Stakeholder Consultation

The 4 November 2024 Gazette notice about EPR fees is absent from [The National Council for Law Reporting's website](#). This to date, is not conducive to appropriate levels of public and stakeholder consultation, especially if the fees are to apply to Mitumba.

MCAK is committed to constructive engagement with the government to find workable solutions that balance Kenya's economic, social, and environmental priorities. We call for immediate consultation with stakeholders to ensure that EPR regulations support sustainability without endangering jobs, livelihoods, and consumer access to affordable clothing.

For further engagement, please contact: mcak@mitumbaassociation.org.