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**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	15581/22 + ADD 1
Subject:	Proposal for a Regulation of the European Parliament and of the Council on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC – Analysis of the final compromise text with a view to agreement

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**INTRODUCTION**

1. On 30 November 2022, the Commission submitted a proposal for a Regulation on packaging and packaging waste. The proposal aims to prevent the generation of packaging waste, boost high quality recycling, and create a market for secondary raw materials. Under this proposal, sustainability requirements and restrictions for chemical substances will be established, and criteria under the extended producer responsibility schemes, labelling, marking and information requirements will be harmonised.
2. In the European Parliament, the file was referred to the Committee on the Environment, Public Health and Food Safety (ENVI), which appointed Frédérique Ries (Renew) as the rapporteur. The ENVI Committee voted its report on 24 October 2023. The European Parliament adopted its position, with further changes, in plenary on 22 November 2023.

3. The European Economic and Social Committee delivered its opinion on 27 April 2023.
4. The Commission presented its legislative proposal and the accompanying impact assessment to the Working Party on the Environment (WPE) on 5 December 2022. The Council (Environment) of 16 March 2023 held a policy debate on the abovementioned proposal on the basis of a background document prepared by the Presidency (6705/1/23 REV 1). The examination of the proposal in the WPE continued during the Swedish and Spanish Presidencies, in a total of 17 WPE meetings. The Council (Environment) reached a General Approach at its meeting on 18 December 2023 (16946/23).

## **STATE OF PLAY OF THE NEGOTIATIONS**

5. The inter-institutional negotiations started under the Belgian Presidency. Following informal technical negotiations in January 2024, a first trilogue took place on 5 February 2024 and the co-legislators reached an agreement on a number of issues, such as the targets for recycled content in plastic packaging and provisions on biobased plastic, or a separate collection threshold allowing for an exemption from the mandatory deposit and return system under Article 44.
6. During the second trilogue on 4 March 2024, the co-legislators reached a provisional overall agreement on all outstanding issues, including provisions on recycled content in packaging, re-use targets, deposit and return systems or the restrictions on certain packaging formats. The main parameters of the final compromise text are set out below.

## **MAIN PARAMETERS OF THE FINAL COMPROMISE TEXT**

7. The following paragraphs contain an overview of the main provisions which form the overall provisional agreement. For further details and for matters not specifically mentioned in this part, delegations are invited to refer to the attached final compromise text annexed to this note. Further editorial changes, for instance to correct erroneous cross-references, numbering issues or typographical errors, will be addressed during the legal-linguistic revision phase.

8. The final compromise text contains a new restriction on the placing on the market of food contact packaging containing per- and polyfluorinated alkyl substances (PFASs) above the thresholds set out in Article 5(2a), to the extent that they are not prohibited by other relevant legislation. In the same spirit, to avoid any legislative overlaps in the future, the Commission is tasked with assessing the need to amend that restriction within four years of the date of application of the regulation.
9. The text sets out 2030 and 2040 targets for minimum recycled content in plastic packaging. It was agreed to exempt compostable plastic packaging and packaging whose plastic component represents less than 5% of the packaging's total weight from those targets. The Commission will review the implementation of the 2030 targets and assess the feasibility of the 2040 targets. It will also assess, three years following the entry into force of the regulation, the state of technological development of bio-based plastic packaging and, on the basis of that assessment, lay down sustainability requirements for bio-based content in plastic packaging.
10. A new provision in Article 7 clarifies that recycled content shall be recovered from post-consumer plastic waste and further specifies the rules for the collection and recycling of that waste, in order to ensure that if they took place in a third country, the standards to promote high quality recycling and the rules concerning the prevention and reduction of emissions into air, water and land associated to the recycling operations were equivalent to applicable EU legislation, namely this regulation, Directive (EU) 2019/904, Directive 2008/98/EC and Directive 2010/75/EU, as relevant.
11. The final compromise text aims to reduce unnecessary packaging by setting a maximum empty space ratio of 50% in grouped, transport and e-commerce packaging, to be applied as of 1 January 2030 or 36 months after the entry into force of the relevant delegated acts. The text also requires manufacturers and importers to ensure that the weight and volume of packaging are minimised, except for protected packaging designs such as Community designs or internationally recognised trademarks, provided that this protection was already in force by the date of entry into force of the regulation.

12. The regulation will introduce restrictions on a number of packaging formats set out in Annex V where all the categories proposed by the Commission have been retained, with a limitation to plastic packaging in the case of fruit and vegetables, as well as for food and beverages, condiments, sauces and other small packaging formats within the HORECA sector. The regulation will also prohibit single use packaging for small cosmetic and toiletry products used in the accommodation sector, and for very lightweight plastic bags, unless a Member State authorises the use of compostable plastic bags.
13. Regarding re-use, the final text features a set of binding targets for 2030 and indicative targets for 2040 for various forms of transport packaging, grouped packaging and packaging for beverages. They are accompanied by necessary exemptions, such as for wine and aromatised wines, milk and other highly perishable products in the case of alcoholic and non-alcoholic beverages, or for food contact packaging and packaging of dangerous goods in the case of targets applicable to transport and sales packaging. Cardboard packaging is also largely excluded from the above targets.
14. At member state level, a renewable five-year derogation is possible if the relevant member state can demonstrate that it is on track to achieve the targets and exceeds its recycling targets by 5 percentage points, together with a requirement for operators to have adopted corporate waste prevention and recycling plans.
15. At the level of the operators, micro-enterprises are exempt from the above targets. Other operators may form pools of up to five final distributors to jointly meet the re-use targets on beverages.
16. Take-away businesses will newly have the obligation to offer customers the possibility of using their own containers at no additional charge, and by 2030, they will have to endeavour to offer 10% of products in packaging formats suitable for re-use.

17. The new rules also establish an obligation to achieve a separate collection of at least 90% of single-use plastic bottles and metal beverage containers by 2029. To meet that target, member states are required to set up deposit return systems (DRSs) for those packaging formats. The minimum requirements for DRS will not apply to systems already in place before the entry into force of the regulation, if the systems in question achieve the 90% target by 2029. Moreover, an exemption from the requirement to introduce a DRS is available to member states if they reach a separate collection rate of above 80% in 2026 and if they submit an implementation plan to reach the required 90%.
18. Amongst other individual issues, the Presidency notes that the final compromise text features the possibility to postpone the 2030 recycling targets by 5 years, or an amended definition of composite packaging according to which insignificant parts of the packaging unit are not to be considered a different material, provided that they don't represent more than 5% of the total mass of the packaging unit.

## CONCLUSION

19. Against this background, the Permanent Representatives Committee is invited to:
- a) approve the final compromise text as set out in Annex to this note with a view to reaching an agreement at first reading with the European Parliament;
  - b) authorise the Chair of the Permanent Representatives Committee to send a letter to the Chair of the European Parliament's Committee on the Environment, Public Health and Food Safety (ENVI) confirming that, should the European Parliament adopt its position at first reading in the exact form as set out in the Annex to this note, subject to revision by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position at first reading.

2022/0396 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

- (1) Products need **appropriate** packaging **in order** to be protected and easy to transport from where they are **to be** produced to where they are used or consumed. Prevention of barriers **on** the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause **uncertainty and** additional cost to the economic operators.
- (2) In addition, packaging uses high amounts of virgin materials, 40 % of plastics and 50 % of paper use in the Union is for packaging, and represents 36 % of municipal solid waste<sup>3</sup>. High and constantly growing levels of packaging generated as well as low levels of re-use and **collection and** poor recycling, present significant barriers to achieving a low-carbon circular economy. ■ This Regulation should **therefore** establish rules **covering** the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and reducing the adverse impacts of packaging and packaging waste on the environment and human health. By laying **down** measures in line with the hierarchy of waste, **this Regulation** should contribute to the transition to a circular economy.
- (3) European Parliament and Council Directive 94/62/EC<sup>4</sup> lays down requirements for Member States on packaging, such as essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and **sets** recovery and recycling targets.
- (4) In 2014, a Fitness Check relating to Directive 94/62/EC<sup>5</sup> recommended adaptations **to** the essential requirements ■ , which were seen as a key tool to achieve better environmental performance of packaging, **to make them “more concrete and easily enforceable” and to strengthen them.**

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<sup>3</sup> Eurostat, Packaging waste statistics: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging\\_waste\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics)

<sup>4</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10-23).

<sup>5</sup> European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209

- (5) In line with the Green Deal<sup>6</sup>, the new Circular Economy Action Plan (CEAP)<sup>7</sup> commits to reinforcing the essential requirements for packaging in view of making all packaging reusable or recyclable by 2030, and to consider other measures to reduce (over)packaging and packaging waste, drive design for re-use and recyclability of packaging, reduce the complexity of packaging materials and introduce requirements for recycled content in plastic packaging. It **also highlights the necessity to reduce food waste**. The Commission **commits** to assess the feasibility of Union-wide labelling that facilitates the correct separation of packaging waste at source.
- (6) Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately five-times better than incineration with energy recovery<sup>8</sup>. Just as the European Strategy for Plastics<sup>9</sup> states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of own resources contribute to reducing pollution from plastic packaging waste<sup>10</sup>. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource **forms part of the** incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy.

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<sup>6</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN>

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&>

<sup>8</sup> Amadei A., Ardente F., Garcia-Gutierrez P., Klenert D., Nessi S., Tonini D., Tosches D., Saveyn H. (2022), Environmental and economic assessment of plastic waste recycling, Mechanical, physical and chemical recycling technologies, publication pending.

<sup>9</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A European Strategy for Plastics in a Circular Economy COM(2018)28 final.

<sup>10</sup> Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM (OJ L 424, 15.12.2020, p. **1-10**).



- (7) The Council underlined in its Conclusions of December 2020<sup>11</sup>, that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions *in order to foster* sustainable packaging in the internal market and minimise the complexity of packaging in order to foster economically feasible solutions, to improve the reusability and recyclability *of packaging*, as well as minimise substances of concern in packaging materials, especially concerning food packaging materials, and to provide for labelling *of packaging* in an easily understandable way to inform consumers about *the* recyclability *of packaging* and where *packaging* waste should be discarded to facilitate **■** recycling.
- (8) The European Parliament’s Resolution of 10 February 2021 on the New Circular Economy Action Plan<sup>12</sup> reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use.
- (9) This Regulation complements Regulation [Ecodesign for Sustainable Products]<sup>13</sup>, under which packaging is not addressed as a specific product category. However, it should be recalled that *it is possible for* delegated acts adopted on the basis of Regulation [Ecodesign for Sustainable Products] *to* establish additional or more detailed requirements for *packaging for specific products*, in particular in relation to packaging minimisation *where the* design or re-design of products can lead to environmentally less impactful packaging.

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<sup>11</sup> <https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf>

<https://data.consilium.europa.eu/doc/document/ST-14167-2020-INIT/en/pdf>

<sup>12</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html)

<sup>13</sup> [https://commission.europa.eu/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/sustainable-products/ecodesign-sustainable-products\\_en](https://commission.europa.eu/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/sustainable-products/ecodesign-sustainable-products_en)

- (10) This Regulation should apply to all packaging placed on the market in the Union and to all packaging waste, regardless of the type of packaging or the material used. For reasons of legal clarity the definition of packaging under the previous Directive 94/62/EC should be restructured without changing the substance. Sales packaging, grouped packaging and transport packaging should be defined separately avoiding duplication of terminology. Consequently, sales packaging corresponds to primary packaging, grouped packaging to secondary packaging and transport packaging to tertiary packaging.
- (10a) Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging where they are designed and intended to be sold empty by the final distributor. Such items should only be considered to be packaging where they are designed and intended to be filled at the point of sale, in which case they are considered as ‘service packaging’, or sold by the final distributor containing food and beverages, provided that they perform a packaging function.***
- (10b) The definition of primary production packaging should not entail an expansion of products being considered as packaging in the sense of this Regulation. The introduction of the definition and its use in the definition of ‘producer’ guarantees that the legal or natural person making this kind of packaging available for the first time is considered to be the producer in the sense of this Regulation and not the primary sector businesses (e.g., the farmers) using this kind of packaging.***

- (11) An item, which is an integral part of a product and is necessary to contain, support or preserve that product throughout its lifetime and where all elements *of that item* are intended to be used, consumed or disposed of together, should not be considered as being packaging given that its functionality is intrinsically linked to it being part of the product. However, in light of the disposal behaviour of consumers regarding tea and coffee bags as well as coffee or tea system single-serve units, which in practice are disposed of together with the product residue leading to the contamination of compostable and recycling streams, those specific items should be treated as packaging. This is in line with the objective to increase the separate collection of bio-waste, as required by Article 22 of Directive 2008/98/EC of the European Parliament and of the Council<sup>1</sup> **and ensures coherence regarding end-of-life financial and operational obligations. *Paints, inks, varnishes, lacquers, and adhesives directly on a product should not be covered by the definition of packaging. However, labels hung directly on or attached to a product including sticky labels attached to fruits and vegetables do fall within the definition of packaging, since the adhesive is a glue and not a label. Furthermore, if a given material composing a packaging unit represents only an insignificant part of the packaging unit, and in no case more than 5% of its total mass, such a packaging unit should not be considered as composite packaging. The definition of composite packaging in this Regulation should not exempt single use packaging partially made of plastics, regardless of the threshold level, from the requirements of Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment;***
- (11a) ***Packaging should be placed on the market only if it complies with the sustainability requirements and the labelling requirements laid down in this Regulation. Placing on the market should be considered to take place when the packaging is made available for the first time on the Union market, supplied by the manufacturer or importer for distribution, consumption or use in the course of a commercial activity, whether in return for payment or free of charge. Thus, packaging already placed on the Union market before the date of application of relevant requirements and in the stocks of distributors, including retailers and wholesalers should not need to meet those requirements.***

- (12) In line with the waste hierarchy set out in Directive 2008/98/EC, and with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for under this Regulation *should aim to reduce* the amount of packaging placed on the market in terms of its volume and weight, and *to prevent* the generation of packaging waste, especially through packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, the measures aim *to increase* the use of recycled content in packaging, *in particular* in plastic packaging where the uptake of recycled content is very low, *by strengthening high-quality recycling systems, thereby increasing* recycling rates for all packaging and *improving the* quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.
- (12a) *In line with the waste hierarchy which places waste disposal through landfills as the least preferred option, the measures provided for under this Regulation should aim to reduce the amount of landfill of packaging waste.*
- (13) Packaging should be designed, manufactured and commercialised in such a way as to allow for its re-use *as many times as possible* or high-quality recycling, and to minimise its impact on the environment during its entire life-cycle and the life cycle of products, for which it was designed. *The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in order to supplement this Regulation by establishing a minimum number of rotations for reusable packaging in specific packaging categories.*
- (14) In line with the objectives of the Circular Economy Action Plan and the Chemicals Strategy for Sustainability<sup>14</sup>, and to ensure the sound management of chemicals throughout their life cycle and the transition to a toxic-free and circular economy, and considering the relevance of packaging in everyday life, it is necessary that this Regulation *address the impact of packaging* on human health, the environment and on broader sustainability performance, including circularity, resulting from *the presence* of substances of concern *throughout* the whole life cycle of packaging, from manufacture to use and end-of life, including waste management.

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<sup>14</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *Chemicals Strategy for Sustainability Towards a Toxic-Free Environment*, COM/2020/667 final.

(15) Taking into consideration ■ scientific and technological progress, packaging should be designed and manufactured in **such** a way as to limit the presence of certain heavy metals and other substances of concern in its composition. As stated in the Chemicals Strategy for Sustainability, substances of concern are to be minimised and substituted as far as possible, phasing out the most harmful ones for non-essential societal use, in particular in consumer products. Accordingly, substances of concern as constituents of packaging material or of any of the packaging components should be minimised with the objective to ensure that packaging, as well as materials recycled from packaging, do not have **any** adverse effect on human health or the environment, throughout their life-cycle.

***(15a) Per- and polyfluoroalkyl substances (PFAS) are a group of thousands of synthetic chemicals that are used widely in the EU as well as in the rest of the world in a broad range of applications<sup>15</sup>. Regarding PFAS tonnage, food contact material and packaging is one of the most relevant sectors. All PFAS in the scope of this Regulation are either very persistent themselves, or degrade into very persistent PFAS in the environment. When looking specifically at human health endpoints considered of most concern following long-term exposure of humans, i.e. carcinogenicity, mutagenicity, reproductive toxicity, including effects on or via lactation, and specific target organ toxicity, a large number of PFAS have a classification for at least one of these five endpoints, Based on the physical properties of PFAS, particularly persistence, along with identified health effects for some PFAS, PFAS represent an environmental and human health hazard.***

***(15b) PFAS in food contact materials will inevitably lead to exposure of humans. Due to the non-threshold nature of the PFAS hazards, exposure to PFAS from food contact materials is an unacceptable risk for human health. PFAS should therefore be restricted in food contact packaging. In order to avoid overlaps with the restrictions on the use of PFAS set out in other Union legislation, the Commission should carry out an evaluation to assess the need to amend or repeal this restriction.***

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<sup>15</sup> <https://echa.europa.eu/documents/10162/1c480180-ec9-1bdd-1eb8-0f3f8e7c0c49>

- (15c) Bisphenol A (BPA) is a chemical compound used in the manufacture of materials that come into contact with food, such as reusable plastic kitchenware or linings for cans, mainly as a protective layer. Exposure to BPA, which can occur through its migration into food and drink and subsequent ingestion by consumers, may pose a risk to consumers at low levels, following an assessment published in 2023 by the European Food Safety Authority (EFSA).*
- (15e) Considering the ongoing procedure on bisphenol A (BPA), in line with the powers conferred on the Commission under Regulation (EC) No 1935/2004 on food contact materials, a restriction on the use of BPA will apply to all food packaging, among other items. This proposed restriction is expected to be adopted before the end of 2024, with a general transition period of 18 months.*

(16) In line with the Zero Pollution Action Plan<sup>16</sup>, Union policies should be based on the principle that preventive action should be taken at source. The Commission underlines in the Chemicals Strategy for Sustainability that Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>17</sup> and Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>18</sup> should be reinforced as the cornerstones for regulating chemicals in the Union and that they should be complemented by coherent approaches to assess and manage chemicals in existing sectorial legislation. Substances in packaging and packaging components are therefore restricted at source and primarily addressed under Regulation (EC) No 1907/2006 in accordance with the rules and procedures laid out under its Title VIII, in order to protect human health and the environment, along all stages of the life cycle of the substance, including the waste stage. Hence, it should be recalled that ■ that Regulation ***applies to the adoption or amendment of*** restrictions on substances manufactured for use or used in the production of packaging or packaging components as well as on the placing on the market of substances present in packaging or packaging components. Concerning packaging falling within the scope of Regulation (EC) No 1935/2004 of the European Parliament and of the Council<sup>19</sup>, it should be recalled that that Regulation applies to ensure a high level of protection of the consumers of packaged food. ***It is possible that substances in packaging, packaging components and packaging waste are also subject to restrictions in other Union legal***

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<sup>16</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions Pathway to a Healthy Planet for All EU Action Plan: ‘Towards Zero Pollution for Air, Water and Soil’ COM(2021) 400 final.

<sup>17</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

<sup>18</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

<sup>19</sup> Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4–17).

*acts, such as restrictions and prohibitions established for persistent organic pollutants under Regulation (EU) 2019/1021<sup>20</sup>.*

- (17) In addition to the restrictions set out in Annex XVII to Regulation (EC) No 1907/2006, and **■** applicable to food contact *materials and articles, and to* Regulation (EC) No 1935/2004, it is appropriate, for reasons of consistency, to maintain existing restrictions for lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components.
- (18) Exemptions to the concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components are established in Commission Decision 2001/171/EC<sup>21</sup> and Commission Decision 2009/292/EC<sup>22</sup> adopted under Directive 94/62/EC and should be maintained also under this Regulation. However, in order to amend or repeal *those* exemptions **■**, or to *lower* the concentration limit value for *those* metals in this Regulation in order to adapt *them* to technical and scientific progress, the power to adopt *delegated* acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (*TFEU*) should be delegated to the Commission. ***On the basis of the Commission Communication “Chemicals Strategy for Sustainability Towards a Toxic-Free Environment” the same limit value for hazardous substances is, as a principle, to apply for virgin and recycled material. However, there may be exceptional circumstances where a derogation to that principle may be necessary. In such cases, a different limit value for the recycled material compared to virgin materials should be justified based on a case by case analysis. When amending the existing exemptions from the concentration levels of lead, cadmium, mercury and hexavalent chromium the Commission should take that principle into consideration.***

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<sup>20</sup> ***Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45–77)***

<sup>21</sup> Commission Decision 2001/171/EC of 19 February 2001 establishing the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste, OJ L 62, 2.3.2001, p. 20.

<sup>22</sup> Commission Decision 2009/292/EC of 24 March 2009 establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste, OJ L 79, 25.3.2009, p. 44.



- (19) *Without prejudice to the restriction of PFAS*, this Regulation should not enable the restriction of *the use of* substances based on reasons of chemical safety, or for reasons related to food safety, *unless there is an unacceptable risk to human health or the environment, including but not limited to* the restrictions on lead, cadmium, mercury and hexavalent chromium that were already established on the basis of Directive 94/62/EC and *that* should continue to be addressed under this Regulation, given that such restrictions are addressed under other Union *legal acts*. It should *nevertheless also* allow for the restriction █ primarily for reasons other than chemical or food safety, of substances present in packaging and packaging components or used in their manufacturing processes, which negatively affect the sustainability of packaging, in particular as regards its circularity, especially re-use or recycling *processes*.
- (20) Designing packaging with the objective of its recycling, once it becomes packaging waste, is one *of* the most efficient measures to improve █ packaging circularity, raise packaging recycling rates and the use of recycled content in packaging. Packaging design for recycling criteria have been established for a number of packaging formats under voluntary industry schemes or by some Member States, *which established them* for the purpose of the modulation of extended producer responsibility fees. In order to prevent barriers *on* the internal market and *to* provide industry with a level playing field, and with the objective to promote the sustainability of packaging, it is important to set mandatory requirements regarding the recyclability of packaging, by harmonising the criteria and the methodology for assessing packaging recyclability based on a design for recycling methodology at █ Union level. In order to meet the objective set out in the CEAP that, by 2030, all packaging should be recyclable █ in an economically viable manner, *recyclable packaging should be designed for material recycling and* packaging recyclability performance grades should be established based on design for recycling criteria for packaging categories as listed in Annex II *and expressed in grades A, B or C so that the packaging should be considered recyclable and, consequently, allowed to be placed on the market. When a packaging is below the grade C it should be considered technically non-recyclable, and its placing on the market should be restricted*. However, packaging should comply with *those criteria only from* 1 January 2030 in order to give sufficient time to the economic operators to adapt. *From 1 January 2038, packaging should comply with grade B in order to be put on the market*.

- (20a) *Material recycling as defined in this Regulation should complement the definitions of recycling and material recovery in Directive 2008/98/EC. Material recycling keeps resources in circulation within the material economy and should therefore not include the biological treatment of waste. The definition of material recycling under this Regulation should not affect the calculation of the recycling targets set for Member States under this Regulation. Those targets and their calculation are based on the definition of “recycling” under Directive 2008/98/EC.*
- (20b) *High-quality recycling implies that the recycled materials, based on their preserved technical characteristics, are of equivalent or higher quality compared to the original material and can be used as a substitute to primary raw materials for packaging or similar applications. The recycled material can be recycled multiple times. To enable the production of high quality recycled raw materials, collection of properly sorted packaging waste is crucial. The difference between material recycling and high-quality recycling is that material recycling recycles the packaging material into materials, while high-quality recycling recycles the packaging into materials of such quality that they can be used as the same quality grade for packaging or other applications where the quality of the recycled material is retained.*
- (21) As design for recycling assessment **■** does not, *in itself*, ensure that packaging is recycled in practice, it is necessary to establish a uniform methodology and *a chain of custody mechanism ensuring that the packaging waste is effectively recycled at scale* based on the *established state of the art* separate collection *and established* sorting and recycling processes, *proven in an operational environment*.<sup>23</sup> *Consequently, from 2035, a new assessment should be carried out based on the quantity (weight) of the material effectively recycled from each of the packaging categories according to the methodology and thresholds based on Article 6 paragraph 6. The thresholds for recycled at scale should be defined taking into account the target for quantity of annual recycled material set in Article 3(1)(32).*

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<sup>23</sup> [https://ec.europa.eu/research/participants/data/ref/h2020/wp/2014\\_2015/annexes/h2020-wp1415-annex-g-trl\\_en.pdf](https://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/annexes/h2020-wp1415-annex-g-trl_en.pdf) (europa.eu)

*Predictably, in 2030, Member States will have already reported to the Commission the first data on quantities of packaging waste recycled by packaging category in accordance with the obligations set out in Articles 50(2)(c) and Article 50(4) to monitor them.*

*The producers, in the case of individual fulfilment of extended producer responsibility obligations, the entrusted producer responsibility organisations, or the packaging waste management operators when public authorities are responsible for the organisation of the management of packaging waste, should make sure that the packaging waste is separately collected, sorted and material recycled in installed infrastructure using established processes in a proven operational environment, and should provide the manufacturer with all the technical documentation ensuring that packaging is recycled at scale.*

- (22) In order to establish harmonised rules on packaging design to ensure its recyclability, the power to adopt delegated acts should be delegated to the Commission to set out detailed criteria for packaging design for recycling per packaging *categories*. ***The Commission should also be empowered to adopt implementing acts*** for the assessment of *whether* the packaging *is recycled* at scale, including for categories of packaging not listed in this Regulation. ■
- (23) In order to stimulate innovation in packaging, it is appropriate to allow that packaging ■ which presents innovative features resulting in significant improvement in the core function of packaging and has demonstrable environmental benefits, is given ■ additional time of five years to comply with the recyclability requirements. The innovative features should be *justified, especially concerning the use of new materials and the planned establishment of a recycling path should be* explained in the technical documentation accompanying the packaging. ***This information should be used, among others, to amend where necessary the implementing acts on design for recycling criteria. The economic operator should also notify to the Commission and the competent authority before placing innovative packaging on the market.***

(24) In order to protect human and animal health and safety, due to the nature of the packaged products and the related requirements, it is appropriate that the recyclability requirements should not apply *mandatorily* to immediate packaging as defined in Directive 2001/83/EC of the European Parliament and of the Council<sup>24</sup> and in Regulation (EU) 2019/6 of the European Parliament and of the Council<sup>25</sup>, which are in direct contact with the medicinal product, as well as *outer packaging as defined in the above acts in cases where such packaging is necessary to comply with specific requirements to preserve the quality of the medicinal product. In addition, the recyclability requirements should not apply mandatorily to* contact sensitive plastic packaging of medical devices covered by Regulation (EU) 2017/745 of the European Parliament and of the Council<sup>26</sup> and of in vitro diagnostics medical devices covered by Regulation (EU) 2017/746 of the European Parliament and of the Council<sup>27</sup>, *of contact sensitive plastic packaging for foods intended for infants and young children and food for special medical purposes covered by Regulation (EU) No 609/2013 of the European Parliament and of the Council<sup>28</sup> as well as packaging used for transport of dangerous goods as set by Directive 2008/68/EC. Sales packaging made from lightweight wood, cork, textile, rubber, ceramic or porcelain should also be exempted, except from paragraph 6aa, since they are placed on the market in very small quantities, i.e. each category amounts to less than 1% of the weight of the packaging placed in the Union market.*

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<sup>24</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

<sup>25</sup> Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43).

<sup>26</sup> Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117, 5.5.2017, p. 1).

<sup>27</sup> Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

<sup>28</sup> ***Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).***

(25) Some Member States are taking action to encourage recyclability of packaging through modulation of extended producer responsibility fees; such initiatives taken at the national level may create regulatory uncertainty for the economic operators, in particular where they supply packaging in several Member States. At the same time, modulation of extended producer responsibility fees is an effective economic instrument to incentivise more sustainable packaging design leading to better recyclable packaging while improving the functioning of the internal market. It is therefore necessary to harmonise criteria for the modulation of extended producer responsibility fees based on the recyclability performance grade obtained through recyclability assessment, while not setting the actual amounts of such fees. As the criteria should be related to the criteria on packaging recyclability, it is appropriate to empower the Commission to adopt such harmonised criteria at the same time as establishing the detailed design for recycling criteria per packaging categories.

- (26) To ensure packaging circularity, packaging should be designed and manufactured in such a way as to allow for the increased substitution of virgin materials with recycled materials. The increased use of recycled materials supports the development of the circular economy with well-functioning markets for recycled materials, reduces costs, dependencies and negative environmental impacts related to the use of primary raw materials, and allows for a more resource-efficient use of materials. In relation to the different packaging materials, the lowest input of recycled materials is in plastic packaging. In order to address these concerns in the most appropriate manner, it is necessary to increase the uptake of recycled plastics, by establishing mandatory targets for recycled content in plastic packaging at different levels depending on the contact-sensitivity<sup>29</sup> of different plastic packaging applications, and ensuring that the targets become binding by 2030. In order to ensure packaging circularity *on an incremental basis*, increased targets should apply as of 2040.

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<sup>29</sup> Contact sensitive packaging refers to plastic packaging of products covered by Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition (OJ L 268, 18.10.2003, p. 29), Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food (OJ L 338 13.11.2004, p. 4), Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1), Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (recast) (OJ L 342, 22.12.2009, p. 59), Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117, 5.5.2017, p. 1), Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176), Regulation (EU) 2019/4 of the European Parliament and of the Council of 11 December 2018 on the manufacture, placing on the market and use of medicated feed, amending Regulation (EC) No 183/2005 of the European Parliament and of the Council and repealing Council Directive 90/167/EEC (OJ L 4, 7.1.2019, p. 1), Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43), Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67) and Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13–59).

- (27) It should be clarified ■ that paper material resulting from the wood pulping process *should not be considered as falling within* the definition of plastic under *this Regulation*.
- (28) In order to ensure a high level of human and animal health protection in accordance with requirements in Union *law* and to avoid any risk to the security of supply and to the safety of medicines and *safety of* medical devices ■, it is appropriate to *exclude* from the obligation of a minimum recycled content in plastic packaging ■ immediate packaging as defined in ■ Directive 2001/83/EC and in ■ Regulation (EU) 2019/6, as well as ■ contact sensitive plastic packaging of medical devices covered by Regulation (EU) 2017/745 and ■ contact sensitive packaging of in vitro diagnostics medical devices covered by Regulation (EU) 2017/746 *and for contact-sensitive plastic packaging of foods only intended for infants and young children and food for special medical purposes covered by Regulation (EU) No 609/2013.. That* exclusion should also apply to outer packaging of human and veterinary medicinal products as defined in ■ Directive 2001/83/EC and in ■ Regulation (EU) 2019/6 in cases where it has to comply with specific requirements to preserve the quality of the medicinal product.
- (28a) *In order to achieve the targets for the integration of recycled content referred to in this Regulation, the Commission should publish, no later than 3 years after entry into force, a review of the state of technological development and environmental performance of bio-based plastic packaging and where appropriate present a legislative proposal with sustainability requirements and targets.*
- (29) In order to prevent barriers *on* the internal market and ensure the efficient implementation of the obligations *under this Regulation*, economic operators should ensure that the plastic part *in* packaging contains a certain minimum percentage of recycled content recovered from post-consumer plastic waste, *per packaging type and format (listed in Table 1 of Annex II), manufacturing plant and year*.
- (29a) *Using the manufacturing plant as a basis for calculation means that a packaging manufacturer will have some flexibility in reaching the minimum percentage of recycled content. Manufacturing plant should be understood as referring only to one industrial facility where packaging is manufactured.*

- (30) There should be an incentive for economic operators to increase the recycled content in the plastic part of packaging. **One way** to achieve this is to ensure the modulation of extended producer responsibility fees based on the percentage of recycled content in packaging. The fee modulation **in such cases** should be based on common rules for the calculation and verification of the recycled content contained in such packaging.
- (31) In order to ensure uniform conditions for the implementation of the rules on calculating and verifying, **from post-consumer plastic waste, per packaging type and format (listed in Table 1 of Annex II), manufacturing plant and year**, the share of recycled content **obtained from the recovery of the** post-consumer plastic waste present, **considering the environmental impact of the recycling process** and establishing the format for technical documentation, the Commission should be empowered to adopt implementing provisions, in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>30</sup>.
- (31a) **In order to provide an internal market for high-quality recycling of plastics and the use of secondary raw materials, the plastic part in packaging placed on the market should contain a certain minimum percentage of recycled content recovered from post-consumer plastic waste per packaging type and format (listed in Table 1 of Annex II), calculated per manufacturing plant and year. The packaging type should be understood as referring to the predominant polymer the packaging is made of, while packaging format should be understood as referring to the size and shape of a specific packaging unit.**

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<sup>30</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).



*(31b) A high level of protection of environment and human health, in particular with regard to the level of emissions into the air, water and soil is necessary for several reasons. First, climate change is a global phenomenon that has no boundaries and its effects do not have a direct connection to the source of GHG emissions: countries with low GHG emissions can experience effects of climate change that are disproportionate to their individual contributions to the global GHG emissions. Second, water systems are interconnected, including via oceanic currents and past experience shows that pollution, including related to plastic waste, happening in one part of the planet can widely spread to other oceans and continents. Third, emissions into the soil can have not only local, but transboundary effects, especially when those emissions pass into the water circuits in nature.*

*The promotion of the use of recycled content in plastic packaging is based on the premise that the recycled content itself was produced in an environmentally sustainable way, so that the carbon footprint is reduced and the circular economy is encouraged. To that end, certain safeguards need to be put in place in order to ensure that the way in which recycled content is obtained does not cancel out the environmental benefits of using such recycled content in subsequent plastic packaging. Therefore, it is necessary to address the related environmental concerns in a non-discriminatory manner with regard to both domestically produced and imported plastic packaging.*

*To that end, imports into the Union should be subject to equivalent conditions with regard to emissions and separate collection and sustainability criteria for recycling technologies.*

*Separate collection of plastic waste is essential to have a direct, positive impact on the collection rate, on the quality of the collected material and the quality of the recyclates, It enables high-quality recycling and it boosts the uptake of quality secondary raw materials. Moving closer to a ‘recycling society’ helps to avoid waste generation and to use waste as a resource, avoiding to lock in resources at the lower levels of the waste hierarchy, with detrimental effects on the environment and disregarding environmentally sound management of waste. Separate collection also avoids the mix between hazardous and non-hazardous waste, ensuring the safety of the waste and of their shipment and avoiding pollution, as provided by international rules such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 29 December 1972 (‘London Convention’) and its 1996 Protocol (‘London Protocol’), Annex V to the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL), as modified by the Protocol of 1978 relating thereto. Furthermore, the discussion at international level within the different meetings of the Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment under the auspices of the UN Environmental Programme (“INC on Plastic Pollution”) have demonstrated at international level the need to step up action concerning separate collection of plastics to limit its environmental impacts and to boost circular economy, in order to prevent the generation of waste and reduce the exploitation of natural resources, and the will of possible contracting Parties to adopt measures in that direction.*

*The 1979 UNECE Convention on Long-Range Transboundary Air Pollution requires the parties to protect the environment against air pollution and to endeavour to limit and, as far as possible, gradually reduce and prevent air pollution including long-range transboundary air pollution. Under the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, parties are required to take measures to prevent, control and reduce any transboundary impact of water pollution. In line with the 1992 Rio Declaration of the UNCED, the polluter should, in principle, bear the cost of pollution. Hence, industrial activities such as recycling of plastic, should come in hand with pollution prevention and reduction measures. The environmental objective of promoting contents recovered from post-consumer plastic waste requires that the plastic recycling is done in a way that minimises the resulting pollution. Otherwise, the industrial pollutions emitted in the course of recycling would reduce or eliminate the environmental added value of encouraging the use of recycled plastic contents.*

*Sustainability criteria should be developed with regard to recycling technologies for post-consumer plastic waste. They should ensure a high level of protection of environment and human health, in particular with regard to the level of emissions into the air, water and soil and resource efficiency. Accordingly, recycling should be performed in an environmentally sound manner, leading to the high quality of recycling processes and products, and ensuring high standards for the recycling sectors. By ensuring the appropriate level of sustainability of the recycling technology and, consequently, the recyclate, the promotion of the use of recycled content in plastic packaging becomes an environmentally responsible measure. Discussions during the meetings of the INC on Plastic Pollution under also stress the importance of ensuring that recycling technologies operate in an environmentally sound manner.*

- (31c) *The methodology for assessing, verifying and certifying, included through third-party audit, the equivalence of the rules applied in case the recycled content recovered from post-consumer plastic waste is recycled and collected outside the Union should ensure a high level of protection of environment and human health, in particular with regard to the level of emissions into the air, water and soil, taking into account the need to ensure that recycling is performed in an environmentally-sound manner, the possibility to ensure high quality recycling, the level of the quality standards for the recycling sectors, and the level of resource efficiency. Such considerations are key to achieving circularity of resources, and therefore putting less pressure on exhaustible natural resources.*
- (32) *It should be recalled that food contact materials containing recycled plastic should comply with the requirements laid down in Regulation (EU) 2022/1616, which includes requirements on recycling technologies.* Regarding plastic packaging, except where *it is* made from polyethylene terephthalate (PET), it *is appropriate*, sufficiently ahead of the date of application of the related recycled content requirements, to re-assess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on *that* assessment, there might be *a* need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to adopt acts in accordance with Article 290 of the *TFEU* should be delegated to the Commission.
- (33) In order to take into account the risks related to a possible insufficient supply of a specific plastic waste for recycling that might lead to excessive prices or adverse effects on health, safety and the environment, the power to adopt acts in accordance with Article 290 of the *TFEU* should be delegated to the Commission in respect of temporarily amending the targets for mandatory recycled content in plastic packaging. In evaluating the justification of such a delegated act, the Commission should assess well-reasoned requests from natural and legal persons.

- (34) For materials other than plastic, such as glass or aluminium, the trend to replace primary raw material with recycled materials is evident and expected to continue because of the development in the legal and economic environment and the consumers` expectations. Nonetheless, the Commission should monitor closely the use of recycled content in packaging materials other than plastics and should assess the appropriateness of proposing to establish further measures, including setting targets, aiming to increase the use of recycled content in packaging other than plastic packaging.
- (35) The bio-waste waste stream is often contaminated with conventional plastics and the material recycling streams are often contaminated with compostable plastics. This cross-contamination leads to waste of resources, lower quality secondary raw materials and should be prevented at source. ***In that sense, for compostable packaging Member States should specify the appropriate waste management on their territory.*** As the proper disposal route for compostable plastic packaging is becoming increasingly confusing for consumers, it is justified and necessary to lay down clear and common rules on the use of compostable plastic packaging, mandating it only when its use brings a clear benefit for the environment or for human health. This is particularly the case when the use of compostable packaging helps collect or dispose of bio-waste, ***for example for products where the separation between the content and packaging is particularly complex, such as tea bags.***

- (36) For limited packaging applications made of biodegradable plastic polymers, there is a demonstrable environmental benefit of using compostable packaging, which enters composting plants, including anaerobic digestion facilities under controlled conditions. Furthermore, where *Member States apply the provision established in second paragraph article 22(1) of Waste framework directive and* appropriate waste collection schemes and waste treatment infrastructures are available in *those Member States*, there should be a flexibility in deciding whether to *allow, on its territory*, the use of compostable *packaging for coffee, tea or other beverage system single-serve units if composed of other than metal packaging material, very lightweight plastic carrier bags and lightweight plastic carrier bags and other packaging that Members States had required them to be compostable before this Regulation*. In order to avoid consumer confusion about the correct disposal *route* and considering the environmental benefit of circularity of the carbon, all other packaging should go into material recycling and the design of such packaging should ensure that it does not affect the recyclability of other waste streams.
- (36b) *In addition, the biodegradable waste should not lead to the presence of contaminants in the compost. The requirements of EN 13432 "Packaging - Requirements for packaging recoverable by composting and biodegradation - Test scheme and evaluation criteria for final acceptance of packaging" should be revised with regard to composting times, permissible levels of contamination and restrictions on the release of microplastic to allow these materials to be processed in bio-waste treatment facilities in an appropriate manner. In addition, a similar standard for home-composting should be established in the Union.*

- (36a) *As described in the EU policy framework<sup>31</sup>, compliance with standards for industrial composting does not imply decomposition in home composting. In industrial composting, the required conditions are high temperatures and high humidity levels. In home composting, which is carried out by private individuals, including in communities, the actual conditions depend very much on local climate circumstances and consumer practices. Hence, biodegradation in home-composting risks being slower than in industrial composting, or not to be completed. Especially, home composting for plastic packaging should only be considered for specific applications and in the context of specific local conditions under the supervision of the relevant authorities.*
- (37) Where justified and appropriate due to technological and regulatory developments impacting the disposal of compostable plastics and under the specific conditions ensuring that the use of such materials is beneficial for the environmental and human health, the **Commission should present, where appropriate, a legislative proposal** to amend **■** the list of compostable packaging.

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<sup>31</sup> *EU policy framework on biobased, biodegradable and compostable plastics. Published 30th Nov 2022. [https://environment.ec.europa.eu/publications/communication-eu-policy-framework-biobased-biodegradable-and-compostable-plastics\\_en](https://environment.ec.europa.eu/publications/communication-eu-policy-framework-biobased-biodegradable-and-compostable-plastics_en)*

- (38) In order to facilitate conformity assessment with requirements on compostable packaging, it is necessary to provide for presumption of conformity for compostable packaging *in line* with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council<sup>32</sup>. *When doing so*, detailed technical specifications of those requirements *should be taken* into account, in line with the latest scientific and technological developments. The parameters, including composting times and admissible levels of contamination, *should* reflect the actual conditions in bio-waste treatment facilities, including anaerobic digestion processes. *The current standard for industrial composting will no longer provide for presumption of conformity since it needs to be revised and replaced by an updated version. However, before there is a new, or updated, harmonised standard available, the current standard can be used as guidance. Regarding home compostable packaging, the Commission should request the development an EN-standardisation as appropriate.*
- (39) It should be recalled that all *packaging intended to come into contact with food or already in contact with food, including compostable packaging, has* to meet the requirements set out in Regulation (EC) No 1935/2004. *Where appropriate, the documentation and information required according to the Union legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.*

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<sup>32</sup> Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council Text with EEA relevance (OJ L 316, 14.11.2012, p. 12).



(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions **and enable recyclability**. The manufacturer of packaging should assess the packaging against the performance criteria, as listed in Annex IV of this Regulation. In view of the objective of this Regulation to reduce packaging and packaging waste generation and to improve circularity of packaging across the internal market, it is appropriate to further specify the existing criteria and to make them more stringent. The list of the packaging performance criteria, as listed in the existing harmonised standard EN 13428:2004<sup>33</sup>, should therefore be modified. **However, before there is a new or updated harmonised standard available, the existing standard, EN 13428:2004, can be used.** While marketing and consumer acceptance remain relevant for packaging design, they should not be part of performance criteria justifying on their own additional packaging weight and volume. However, this should not compromise product specifications for craft and industrial products and food and agricultural products **with packaging is** registered and protected under the EU geographical indication protection scheme, as part of the Union’s objective to protect cultural heritage and traditional know-how **including Regulation EU No 1308/2013 for wine, Regulation EU No 2019/787 for spirit drinks, or covered by quality schemes referred to in Regulation EU No 1151/2012.** **It should also not compromise packaging design protected under Union or Member States design or trademark legislation or international agreements having effect in one of the Member State. This exception is justified only to the extent that the new rules on packaging minimisation will affect the shape of the packaging in such a way that the trademark can no longer distinguish the marked good from those of another undertaking, and the design can no longer keep its new and individual characteristics. In order to avoid the risk of abuse, the exemption should apply only to trademark and design rights protected before [date of entry into force of this Regulation].** On the other hand, recyclability, the use of recycled content, and re-use may justify additional packaging weight or volume, and should be added to the performance criteria. Packaging with double walls, false bottoms and other characteristics only aimed to increase the perceived product volume should not be placed on the market, as it does not meet the requirement for packaging minimisation. The same rule should apply to superfluous packaging not necessary for ensuring packaging functionality.

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<sup>33</sup> Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction.

- (41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space *in* grouped and transport packaging, including e-commerce packaging.
- (42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and specify measurable design criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.
- (43) To promote the circularity and sustainable use of packaging, reusable packaging and systems for re-use should be incentivised. For that purpose, it is necessary to clarify the notion of reusable packaging and to ensure that it is linked not only to the packaging design, which should enable *the highest possible* number of  rotations and maintaining the safety, quality and hygiene requirements when being emptied, unloaded, refilled or reloaded, but also to the setting up of systems for re-use respecting minimum requirements as set out in this Regulation. In order to facilitate conformity assessment with requirements on reusable packaging, it is necessary to provide for presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and define reusable packaging criteria and formats, including minimum number of trips or rotations, standardised designs, as well as requirements for systems for re-use, including hygiene requirements.
- (44) It is necessary to inform consumers and to enable them to appropriately dispose of *any* packaging waste . The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles. *The need for such a harmonised labelling system to be recognised by all citizens irrespective of their circumstances, such as age and language knowledge, should be a guiding factor in their design. This can be achieved through the use of pictograms with minimal language used. This would also serve to minimise the costs for translation of language used, which would otherwise be required.*

- (44a) *Sorting is an essential step to ensure greater circularity of packaging. The improvement of sorting capacities, notably through technological innovations, should be encouraged in order to allow a better quality of sorting, and thus a better quality of feedstock for recycling.*
- (45) To facilitate consumers in the sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting *or to avoid that compostable packaging is thrown away in nature, but only compostable in industrially controlled conditions*. This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems *established after the entry into force of the regulation. Member States may require the use of such harmonised label on packaging subject to deposit and return systems established, by virtue of national law, before the entry into force of this Regulation*. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.
- (46) Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.

- (46a) *Labelling of biobased plastic content in packaging should also not be mandatory as there are a number of conditions that biobased plastic have to meet to ensure sustainability and more scientific evidence is necessary to ensure that, over their whole life-cycle, the use of biobased plastic is in line with the principles of circular economy as set out in the Communication from the Commission on an EU policy framework on biobased, biodegradable and compostable plastic.<sup>35</sup> However, manufacturers may wish to display that information on their packaging to inform consumers of the biobased plastic content in that packaging. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the biobased plastic content should be harmonised.*
- (47) In order to inform *end users* about reusability, availability of systems for re-use and location of collection *channels* as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code *or other type of standardised, open, digital data carrier* should *contain information which facilitates tracking and the calculation of trips and rotations, or an average estimation if that calculation is not feasible. This label should be voluntary for open loop systems which do not have a system operator.* In addition, reusable sales packaging should be clearly identified at the point of sale.

- (48) There should be no multiplication of labels on packaging. In order to avoid this, where other Union legislation requires information on the packaged product to be available digitally through a data carrier, the information required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. ***Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable promoting circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging circularity.***
- (49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It ***may*** be possible to identify packaging included in the extended producer responsibility scheme by ***a corresponding*** symbol throughout the territory of that ***scheme only by means of a QR code or other standardised digital marking technology in order to signify that the producer fulfils its extended producer responsibility obligations. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging.***
- (49a) ***Packaging covered by mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection channels that are authorised for that purpose by national authorities. This label should be a harmonised EU label established by the Commission. Member States may require the use of such harmonised label on packaging subject to deposit and return systems established by virtue of national law before the entry into force of this Regulation.***

- (49b) *Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between this Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. [The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, provides that displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]*
- (50) In order to ensure uniform conditions for the implementation of the labelling requirements, **■** implementing *powers* should be **conferred on** the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of *standardised, open, digital* technologies, and to lay down detailed **harmonised** specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should **keep linguistic elements to a minimum and** take into account scientific or other available technical information, including relevant international standards. **The harmonised labelling of packaging subject to a deposit and return system should be designed with consideration given to the variation in the deposit being charged, which may exist between Member States.** In view of the new system, Commission Decision 97/129/EC<sup>34</sup> should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.
- (51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.

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<sup>34</sup> Commission Decision of 28 January 1997 establishing the identification system for packaging materials pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste (OJ L 50, 20.2.1997, p. 28–31).

- (52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should therefore remain solely the obligation of the manufacturer.
- (53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.
- (54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market *complies* with this Regulation, whether imported as *standalone* packaging or in *association with* a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market *complies* with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.
- (55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered *trademark* as well as their postal address and, where available, electronic means of communication through which it can be contacted. Exceptions should be provided for in cases where the packaging does not allow for such indications.
- (56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.
- (57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the *packaging* concerned.

- (58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a **packaging** in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.
- (59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.
- (60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space **ratio** should be set on economic operators **who fill or otherwise use** such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or **end-user**, the empty space **ratio** should not exceed **50%**. In line with the waste hierarchy **and to promote packaging innovation with the aim of packaging waste reduction**, it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation. **That obligation shall not apply to reusable packaging.**
- (61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and **food** hygiene ■ and facilitate the achievement of the packaging waste prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the **TFEU** should be delegated to the Commission. **The Commission should publish guidelines explaining in more detail Annex V, including examples of the packaging and guidance as regards the exemptions to the restrictions.**



- (62) In order to further the aim of circularity and sustainable use of packaging, it is necessary to limit the risk that packaging marketed as reusable is not re-used in practice and to ensure that consumers return reusable packaging. The most appropriate manner to achieve this is to oblige economic operators, who use reusable packaging, to ensure that a system for re-use is put in place, thus allowing such packaging to circulate, rotate and be repeatedly used. To ensure maximum benefits of such systems, minimum requirements should be laid down for open loop and closed loop systems. Confirmation of compliance of reusable packaging with **a** system for re-use should also be a part of the technical documentation of such packaging. ***Reuse systems can vary in size and geographical coverage and range from smaller local systems to larger systems that may span over one or several Member States' territory.***
- (63) Reusable packaging has to be safe for its users. Therefore, economic operators offering their products in reusable packaging have to ensure that, before a reusable packaging is used again, it is subject to a reconditioning process, for which requirements should be laid down.
- (64) Reusable packaging becomes waste, in the sense of the Article 3(1) of Directive 2008/98/EC, when its holder discards it, intends to discard it or is obligated to discard it. Reusable packaging in a reconditioning process is normally not considered to be waste.
- (65) To incentivise waste prevention, a new concept of 'refill' should be introduced. Refill should be considered as a specific waste prevention measure that counts towards and is necessary for meeting ***the prevention*** targets ***as set out in*** this Regulation.
- (66) Where economic operators offer the possibility to purchase products through refill, they should ensure that their refill stations meet certain requirements in order to ensure the health and safety of consumers. In this context, where the consumers use their own containers, the economic operators should therefore inform about the conditions for safe refill and use of those containers. In order to encourage refill, economic operators should not provide packaging free of charge or not being a part of deposit and return system at the refill stations. ***Economic actors should be exempted from liability for food safety problems that could arise from the use of containers provided by consumers.***

- (67) In order to reduce the increasing proportion of packaging that is single use and the growing amounts of packaging waste generated, it is necessary to establish quantitative re-use targets on packaging in sectors, which have been assessed as having the greatest potential for packaging waste reduction, namely food and beverages for take-away, large-white goods and transport packaging. This was appraised based on factors such as existing systems for re-use, necessity of using packaging and the possibility of fulfilling the functional requirements in terms of containment, tidiness, health, hygiene and safety. Differences of the products and their production and distribution systems were also taken into account. ***The implementation of such targets should take into account the environmental benefits achieved throughout the whole life cycle of a product.*** The setting of the targets is expected to support the innovation and increase the proportion of re-use and refill solutions. Single use packaging for food and beverages filled and consumed, within the premises in the HORECA sector should not be allowed. ***Consumers should always have the option to purchase food and beverages for take-away in reusable or their own containers at conditions not less favourable than food and beverages offered in single-use packaging. Economic operators selling food or beverages for take-away should offer consumers the option to purchase the food or beverages in their own containers and the option to purchase food and beverages in reusable packaging.***
- (67aa) ***Under certain conditions, Member States should be able to exempt economic operators from re-use obligations for a renewable period of 5 years. These conditions should be related to high recycling and applicable waste prevention rates in the exempting Member State, including a first intermediary waste prevention rate of 3% by 2028, as well as the adoption of a corporate waste prevention and recycling plan by the economic operators.***
- (67a) ***Placing on the market of packaging subject to the Article 22(1) Annex V points 3 and 4 of this Regulation for means of transport operating cross border, where catering services are available on-board, such as aircrafts, planes, trains, cruise ships, ferries, yachts and boats should be understood as travelling with that packaging to or within the European Union. Travelling within European Union should be understood as a situation where the transport vehicle departs from and arrives at a destination located in the European Union.***

- (68) To increase their effectiveness and ensure the equal treatment of economic operators, the re-use **■** targets should be placed on the economic operators. In *the case* of targets for beverages, *these* should be **■** placed **■** on the *final distributors*. *Some specific beverages considered perishable, which are sensitive to microbiological spoilage cause by bacteria or yeasts, need specific aseptic technology to protect them from spoilage while keeping a long shelf life. Therefore, milk and other perishable beverages should be exempted from the obligation to meet the beverage packaging re-use targets.* The targets should be calculated as a percentage of sales, *volume or weight sold* in reusable packaging within a system for re-use or **■** , in *the* case of transport packaging, as a percentage of *number of times used*. The targets should be material neutral. In order to ensure uniform conditions for the implementation of targets for re-use, implementing *powers should be conferred on the Commission as regards* the methodology for their calculation **■** .
- (69) *In some cases, the use* of single use transport packaging formats *is* not necessary, as there is a wide range of well-functioning reusable alternatives. In order to ensure that such alternatives are effectively used, it is appropriate to require economic operators, when transporting products between different sites of the same economic operator or between the economic operator and the linked or partner enterprises, to *only* use **■** reusable transport packaging with respect to packaging formats such as pallets, foldable plastic boxes, plastic crates, intermediate bulk containers, both rigid and flexible, or drums. The same obligation should, for the same reasons, apply to economic operators transporting products within one Member State. *For some specific transport packaging, which is the case for cardboard boxes, reusable alternatives cannot be an option for contact sensitive products, which need specific washing in between uses and for other applications the number of rotations is very low. Therefore, cardboard boxes should be exempted from the obligation to meet the transport packaging re-use targets.*

- (70) Achieving re-use and refill targets can be challenging for smaller economic operators. Therefore, certain economic operators should be exempted from the obligation to meet the packaging re-use targets if they place less than a certain volume of packaging on the market, *and* fulfil the definition of *micro-enterprise* under Commission Recommendation *2003/361/EC*<sup>35</sup>, or have *a* sales area ■ under a certain surface limit. The power to adopt acts in accordance with Article 290 *TFEU* should be delegated to the Commission ■, to lay down further exemptions for other economic operators or to exempt specific packaging formats covered by the reuse or refill targets in case of severe hygiene, food safety or environmental issues preventing the achievement of these targets.
- (71) To enable the verification of compliance with the re-use ■ targets, it is necessary that the respective economic operators report to the competent authorities. Economic operators should report the relevant data for each calendar year, starting from 1 January 2030. Member States should make this data publicly available.
- (71a) As economic operators may have several different packaging formats, the attainment of the re-use targets should be calculated on the basis of the total number of units of sale, or weight of food or the total number of units of sale, or volume of beverage made available on the market.*

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<sup>35</sup> Commission *Recommendation 2003/361/EC* of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (notified under document number C(2003) 1422) (OJ L 124, 20.5.2003, p. 36).

- (72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council<sup>36</sup>. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements.
- (73) In view of the results of the evaluation study on plastic carrier bags<sup>37</sup>, further measures need to be taken to reduce the consumption of lightweight plastic carrier bags and assess possible substitution effects with very lightweight plastic carrier bags and thicker plastic carrier bags above 50 microns.
- (73a) As very lightweight plastic carrier bags, below 15 microns, have a high potential to become waste and contribute to marine pollution, measures should be taken to restrict their placing on the market except for strictly necessary uses. Those plastic bags should not be placed on the market as packaging for bulk foodstuffs, except for hygienic reasons or for packaging wet bulk foodstuffs such as raw meat, fish or dairy products.***

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<sup>36</sup> Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015 amending Directive 94/62/EC as regards reducing the consumption of lightweight plastic carrier bags (OJ L 115, 6.5.2015, p. 11).

<sup>37</sup> Scoping study to assess the feasibility of further EU measures on waste prevention and implementation of the Plastic Bags Directive. Part II, Implementation of the Plastic Bags Directive, Eunomia (2021), published by the Publication Office of the European Union, 2022.

- (74) ■ To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory, *Member States should be able to adopt measures which include banning these types of plastic carrier bags, implementing* national reduction targets, maintaining or introducing economic instruments as well as *other* marketing restrictions, provided that these *measures* are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use. *Provided that the objectives set out in Article 29 are achieved, Member States may implement the provisions set out in Article 29(1) by means of agreements between the competent authorities and the economic sectors concerned.*
- (74a) *A reduction in the use of plastic carrier bags should not lead to a substitution with other packaging materials. The Commission should monitor the use of other materials and propose a target, and, if appropriate, measures for the reduction of the consumption of such materials.*
- (75) In order to ensure the effective and harmonised application of sustainability requirements set under this Regulation, compliance with those requirements should be measured using reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art methods.
- (76) In order to ensure that there are no barriers to trade on the internal market, requirements on packaging sustainability, including on substances of concern in packaging, compostable packaging, packaging minimisation, reusable packaging and systems for re-use should be harmonised at Union level. In order to facilitate conformity assessment with such requirements, including methods for tests, measurement or calculation, it is necessary to provide for presumption of conformity for packaging and packaged products which are in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements, especially that the life-cycle of packaging and packaged products, reflect the average range of consumer behaviour and be robust in order to deter intentional and unintentional circumvention.

- (77) In the absence of harmonised standards, recourse to common technical specifications should be used as a *fall-back* solution to facilitate the manufacturer's obligation to comply with sustainability requirements, for instance where there are undue delays in establishing a harmonised standard. In addition, recourse to this solution should be possible where the Commission has restricted or withdrawn the references to relevant harmonised standards in line with Article 11(5) of Regulation (EU) No 1025/2012. Compliance with common technical specifications adopted by the Commission through implementing acts should also give rise to the presumption of conformity.
- (78) In order to ensure uniform conditions for the implementation of the recourse to common technical specifications, ■ implementing *powers* should be *conferred on* the Commission to lay down, amend or repeal common technical specifications for the requirements on sustainability, labelling and systems for re-use, and to adopt test, measurement or calculation methods. *The Commission should take into account the views of relevant bodies or the expert group and should duly consult all relevant stakeholders when preparing the draft implementing acts.*
- (79) To ensure coherence with other Union law, the conformity assessment procedure should be the internal production control module included in this Regulation based on the modules included in Decision No 768/2008/EC of the European Parliament and of the Council<sup>38</sup>.
- (80) CE marking on packaging should not indicate compliance of the packaging with the requirements of this Regulation but only indicate compliance of the packaged product with the applicable Union product legislation, if relevant. Indeed, Union product legislation typically requires affixing the CE marking concerning the product either on the product itself or on its packaging. Requiring CE marking on the packaging to show compliance with the requirements of this Regulation can lead to confusion and misunderstanding in relation to the question whether the marking refers to the packaging itself or to the packaged product and ultimately to uncertainties about the effective safety and compliance of the concerned packaged products.

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<sup>38</sup> Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

- (81) Compliance of packaging itself with the requirements of this Regulation should instead be shown with the EU declaration of conformity.
- (82) Manufacturers should draw up an EU declaration of conformity to provide information on the conformity of packaging with this Regulation. Manufacturers may also be required by other Union legislation to draw up an EU declaration of conformity. To ensure effective access to information for market surveillance purposes, a single EU declaration of conformity should be drawn up in respect of all Union acts. To reduce the administrative burden on economic operators, it should be possible for that single EU declaration of conformity to be a dossier made up of relevant individual declarations of conformity.
- (83) Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>39</sup> provides a framework for the market surveillance of products and for controls on products from third countries. That Regulation should be applicable to packaging covered by this Regulation in order to ensure that packaging benefiting from the free movement of goods within the Union fulfil requirements providing a high level of protection of public interests such as human health, safety and the environment.
- (84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent, efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and *to* contributing to long-term competitiveness. The more efficient use of resources would also bring substantial net savings for Union businesses, public authorities and consumers, while reducing total annual greenhouse gas emissions.

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<sup>39</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).



- (85) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.
- (86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.
- (87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.
- (88) As management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. ***As regard the*** measures on waste prevention and re-use, ***they*** should be ***included in the waste prevention programmes required pursuant to Directive 2008/98/EC. Those chapters should be included in the waste management plan and the waste prevention programme as part of their next regular evaluation as required under Directive 2008/98/EC, or earlier.***
- (89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.

- (90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and ***the use*** of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.
- (91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established. ***Member States which have established a different system for the management of household packaging waste, on one hand, and of industrial and commercial packaging waste, on the other, should have the opportunity to retain their specificity.***
- (91a) As the generation of commercial and industrial packaging waste is not related to household consumption, the prevention targets per capita cannot apply as such to commercial and industrial packaging waste.***

- (92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use **targets** and refill **obligations**, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum **waste prevention** targets set out in this Regulation. **When implementing such measures, Member States should be aware of the risk of a shift from heavier to lighter packaging materials and should prioritise measures that minimise that risk.**
- (93) To implement the polluter pays principle, it is appropriate to lay the obligations for the management of packaging waste on producers. **To this end, this Regulation builds on the extended producer responsibility (EPR) requirements laid down in Directive 2008/98/EC in order to ensure that the EPR scheme is established to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. This Regulation seeks to clearly define one producer per packaging unit, be it for empty packaging or for packaging containing products. As a general rule, the producer should be the economic operator established in a Member State who makes available from within the territory of that Member State packaged products for the first time on the market of the Member State as a manufacturer, importer or distributor established in the Member State. This includes any offer for distribution, consumption, or use which could result in actual supply. Thus, in the case that a company buys a packaged product from another Member State different from the one where the company is located or from a third country, and supplies this packaged product in that Member State where it is located, that company should be considered the producer as it is the first company making available the packaged product from within the territory of that Member State. With regards to online platforms, the initial offering of a product should be considered as making available in the sense of the producer definition.**

*However, to minimise any unnecessary administrative burden for small businesses that fill transport packaging, reusable packaging, primary production packaging or service packaging at the point of sale, the producer should be the manufacturer, distributor or importer of such packaging that makes the packaging available for the first time from within the territory of the Member State, since that economic operator is best placed to comply with the extended producer responsibility obligations. On the other hand, when the packaging or the packaged product is made available by means of distance contracts directly to the end user, the producer could also be established in another Member State or in a third country. In these cases, if the producer is established in another Member State, it should appoint an authorised representative for the extended producer responsibility in the Member State where the end user is located. When the producer is established in a third country, Member States may provide that the appointment of an authorised representative for the extended producer responsibility is also mandatory in order to avoid the risk of eluding the extended producer responsibility obligations. In order to ensure the respect of the “polluters pay principle” and in the context of compliance with extended producer responsibility, it is necessary to ensure certainty on which kind of producer is responsible for packaging waste, notably in case of ‘logistics companies’. Logistics companies are companies receiving goods coming from third countries and having handling activities regarding the imported goods (e.g. unpacking and repacking into smaller formats/quantities to comply with the clients requests), before sending the goods, without, in full or partially, the original transport packaging to their clients, who can be situated in other EU countries. In this case, thus, a producer should be identified for the (original) transport packaging coming from third countries and remaining with the logistics company and becoming waste in the EU. The logistics company will typically not have ownership of the goods but should be considered as the producer for the packaging coming from third countries and that it handles during its activity.*

- (93a) The cost resulting from the cleaning activities (including transport and subsequent treatment) of packaging waste present in litter is part of the full waste management cost of packaging which should be covered by the extended producer responsibility, as confirmed in the Directive 2019/904.*

- (94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State, it is necessary that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.
- (95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, **■** implementing *powers* should be **conferred on** the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.
- (96) In line with the polluter-pays principle expressed in Article 191(2) *TFEU*, it is essential that the producers, **including e-commerce actors**, placing on the Union market packaging and packaged products take responsibility for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. ***For example, in order to facilitate the separate collection of packaging waste, the producers should finance the labelling of waste receptacles. Such an obligation would be in line with the polluter pays principle and the general minimum requirements for EPR schemes established in Directive 2008/98/EC.***
- (96a) ***As regards the extended producer responsibility (EPR) obligations, this Regulation is a lex specialis in relation to Directive 2008/98/EC. That means that the provisions related to EPR in this Regulation should prevail over any conflicting provisions in that Directive. This principle concerns, for example, requirements on producer registration, modulation of EPR fees and reporting.***

- (96b) *In addition to the harmonised requirement on recyclability for the modulation of the producers' financial contributions to be laid down in delegated acts adopted in accordance with this Regulation, Member States should be allowed to use other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with Directive 2008/98/EC.*
- (97) Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility **organisations** to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. ***The competent authority should be able to charge cost-based and proportionate fees to producers or entrusted PROs for the authorisation procedure referred to in Article 42(2).***
- (97a) *When the extended producer responsibility fee charged by a producer responsibility organisation is categorized as public revenue, as in the case of a State-run PRO, and in order to follow the budgetary rules that require the public revenue to be based on accurate data, the Member State may require more frequent reporting of the information set out in Part B and C of Annex IX to the competent authority responsible for the register by the producer than once a year. In the case of state-run producer responsibility organisations, as there is no represented producer's mandate, the requirements provided in this Regulation concerning such mandates should not apply.*

- (98) ***This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council<sup>40</sup>, including Article 30(2) and (3) thereof, are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to fall within the definition of trader under Regulation (EU) 2022/2065.*** In order to prevent free-riding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In that context, providers of online platforms, falling within the scope of Section 4 of Chapter **III** of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, ***prior to allowing them to use their services, in line with Regulation (EU) 2022/2065***, from those producers, information about their compliance with the extended producer responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in ***Regulation (EU) 2022/2065***.
- (98a) ***Similar undesirable situations of free-riding could occur in relation to fulfilment service providers. This Regulation includes some provisions to prevent them with a similar approach to that of Regulation (EU) 2022/2065 as regards providers of online platforms.***

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<sup>40</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).

- (98b) *The register of producers established pursuant to this Regulation is to be considered a public register according to Regulation (EU) 2022/2065. Therefore, providers of online platforms allowing consumers to conclude distance contracts with producers should make the best effort to assess whether the information provided by the producers concerned is reliable and complete, in particular by using or verifying freely available official online databases and online interfaces or request the traders concerned to provide trustworthy supporting documents, in accordance with Regulation (EU) 2022/2065. As far as publicly available data according to this Regulation is concerned, “making best efforts” in the sense of the first subparagraph of Article 30(2) of Regulation (EU) 2022/2065 can usually require a verification of the information provided by the producer with the publicly available data according to this Regulation. In particular, this applies if a Member States has established an online interface for automated data reconciliation according to this Regulation. Financial contributions imposed to producers pursuant to Article 40(1a) of this Regulation should be without prejudice to any voluntary agreement between online marketplaces and producers where online marketplace consents to accept all or part of those costs on behalf of producers by a written mandate.*
- (98c) *Financial contributions imposed to producers pursuant to Article 40(1a) of this Regulation should be without prejudice to any voluntary agreement between online marketplaces and producers where online marketplaces, on behalf of producers by written mandate, consent to accept all or part of those costs.*
- (99) Member States should provide for the measures **implementing** the extended producer responsibility, *rules on separate collection of packaging waste and the labelling of waste receptacles where this Regulation does not provide for a full harmonisation on such measures. Furthermore, it should be possible for Member States to provide for additional requirements for the implementation of the extended producer responsibility, in accordance with Directive 2008/98/EC and this Regulation, provided such measures do not create barriers on the internal market. This Regulation does not regulate which operator is responsible for the collection of packaging waste and other national contractual arrangements for packaging waste collection.*



- (100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.
- (100a) Member States might have already established separate waste collection and recycling systems, which are the basis for relevant national authorisations and contractual arrangements, when transposing Article 7 of Directive 94/62/EC in national law. Member States can continue to use these systems provided they correctly implement the obligations under this Regulation.*
- (101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of **the** minimum percentage set for recycled content in plastic packaging.
- (101a) The collection of packaging is a crucial step to ensure its circularity, and to ensure a strong market for secondary raw materials. The establishment of a mandatory collection rate is an incentive to develop efficient and targeted collection systems at national level, and thus increase the quantity of waste sorted and potentially recycled.*
- (102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate **and high-quality recycling**, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high collection rates **and high-quality recycling** of metal beverages containers, it is appropriate that Member States establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.

- (103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging ***for other products or made of other materials*** in these systems, in particular single use glass bottles, and should ensure that deposit and return systems for single-use packaging formats, in particular for single use glass beverage bottles, are equally available for reusable packaging, where technically and economically feasible. They should consider establishing deposit and return systems also for reusable packaging. ■ Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, ***to*** adopt provisions which go beyond the minimum requirements set out in this Regulation, ***such as the charge of the deposit at the point of sale in the case of consumption in hospitality premises, or the obligation for all final distributors to accept the deposit bearing packaging regardless of the packaging material and format that they distribute or their sale surface area.***
- (103a) ***This Regulation should take into account the diversity of deposit and return systems that exist in the Union, and ensure that technological developments in these systems are not hindered when they meet the conditions and criteria for increasing collection rates and ensuring better quality recycling.***
- (104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products ***and similar products to wine***, spirit drinks and milk and milk products listed in Part XVI of Annex I of ■ Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>41</sup>. ***However***, Member States may establish deposit and return systems covering ***such beverage packaging and*** also other ***beverage and non-beverage*** packaging.

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<sup>41</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

- (105) ***By, 1 January 2029***, all deposit and return systems ***for single use plastic beverage bottles and single use metal beverage containers*** should comply with the ***general minimum requirements laid down in this Regulation, with the exception of deposit and return systems established before the entry into force of this Regulation, which achieve the 90 % separate collection target by 1 January 2029***. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.
- (106) Member States ***with regions with high transboundary business should ensure that*** the deposit and return systems ***allow for collection of packaging from other Member States DRS at designated collection points and should endeavour to enable the possibility to return the deposit***.
- (107) Member States which achieve ***80%*** collection rate of the targeted packaging types without a deposit and return system ***in 2026***, may request not to establish a deposit and return system.
- (107a) Member States may choose to implement the deposit and return scheme at a subnational level, taking into account relevant national administrative divisions and the specific situation of overseas territories, as long as they demonstrate the environmental and economic performance of such scheme, and its full consistency with the 90 % collection rate for single use plastic beverage bottles and metal beverage containers set out in this Regulation.***
- (108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use ***targets*** and refill ***obligations*** in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers.

- (108a) *Requirements for collection, sorting, redistribution to fillers and cleaning are of a completely different nature for single use deposit and return systems and for deposit-based re-use systems. Therefore, the minimum requirements for deposit and return systems should not apply to deposit-based re-use systems. Requirements specific to the systems for re-use should be applicable instead.*
- (109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council<sup>1</sup> setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be retained. **Recognising different starting point of each Member State in relation to recycling targets, and while measures facilitating the attainment of these targets are proposed in the Regulation**, it should **■** be *still* possible to postpone the deadlines for attaining the 2030 recycling targets, **under certain conditions. However, the Commission should be empowered to reject the revised implementation plan submitted by a Member State.**
- (110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more **granular** data on the packaging **and packaging waste recycling** flows **■** should be reported to the Commission. That will enable the Commission to review the targets with the possibility of maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 7 years after its entry into force. During that review, attention should also be paid to the possibility of introducing new targets on a more granular basis than the current targets.

(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation, to be corrected with average loss rates occurring before the waste enters the recycling operations. Losses of materials which occur before the waste enters the recycling operation, for instance due to sorting or other preliminary operations, should not be included in the waste amounts reported as recycled. Those losses can be established on the basis of electronic registries, technical specifications, detailed rules on the calculation of average loss rates for various waste streams or other equivalent measures. Member States should report on such measures in the quality check reports accompanying the data which they report to the Commission on waste recycling. The average loss rates should preferably be established at the level of individual sorting facilities and should be linked to the different main types of waste, different sources (such as household or commercial), different collection schemes and different types of sorting processes. Average loss rates should only be used in cases where no other reliable data are available, in particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.

- (112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.
- (113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.
- (113a) When establishing the methodology for the calculation and verification of the percentage of recycled content, the Commission should assess, in view of the available recycling technologies, their economic and environmental performance, including the quality of the output, the availability of the waste, the energy needed and greenhouse gas emissions and other relevant environmental impacts. The Commission should also take into account the potential of such technologies to be used for misleading environmental claims.***

- (113b) *Claims on packaging characteristics for which legal requirements are set out in this Regulation, such as recyclability, the level of recycled content and reusability, should only be made in relation to packaging properties exceeding the applicable minimum requirements set out in this Regulation and according to the methodologies and rules established under this Regulation. They should also specify whether they relate to the packaging unit, part of the packaging unit or to all packaging placed on the market by the producer.*
- (114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004<sup>42</sup> laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC.
- (115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>43</sup> applies.
- (116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by taking into account maximum 5 percentage points of the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.

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<sup>42</sup> Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).

<sup>43</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

- (117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. ***Producers and producer responsibility organisations should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. No packaging should be littered.*** The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies. The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.
- (117a) Separate out-of-home collection is an important element in order to increase collection rates of packaging, and improve its circularity. Member States and economic actors should be able to take specific measures for separate out-of-home collection, adapted to the location and habits of consumers.***
- (118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. ***The provision*** of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return systems to be set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.



- (119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on **amounts of recycled** packaging waste per packaging category, and amounts of **■** packaging **made available for the first time on the market of the Member State per packaging category. Reporting should be done annually. The Commission should add those data and publish them to monitor the annual evolution of the recycled at scale packaging waste.**
- (120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.
- (121) In order to ensure uniform conditions for the implementation of the reporting obligations, **powers should be conferred on the Commission so that the latter can** establish rules for calculation and verification of data on attainment of the recycling targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896<sup>44</sup> and 2005/270/EC<sup>45</sup>.

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<sup>44</sup> Commission Implementing Decision (EU) 2018/896 of 19 June 2018 laying down the methodology for the calculation of the annual consumption of lightweight plastic carrier bags and amending Decision 2005/270/EC (OJ L 160, 25.6.2018, p. 6).

<sup>45</sup> Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).

- (122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation, the Member States should establish packaging databases and ensure that *those databases function well*.
- (123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, *competent authorities should endeavour to control the accuracy of at least part of the declarations of conformity per year, and* Regulation (EU) 2019/1020 of the European Parliament and of the Council<sup>46</sup> setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation. *The market surveillance mechanisms laid down in Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging.*
- (124) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.

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<sup>46</sup> *Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).* Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1) ■

- (125) A procedure should exist under which interested parties are informed of measures intended to be taken with regard to packaging presenting a risk. It should also allow market surveillance authorities in the Member States, in cooperation with the relevant economic operators, to act at an early stage with regard to such packaging. In order to ensure uniform conditions for the implementation of this Regulation, ■ implementing *powers* should be ***conferred on*** the Commission to determine whether national measures in respect of non-compliant products are justified or not.
- (126) The market surveillance authorities should have the right to require economic operators to take corrective action on the basis of findings that either packaging is not compliant with sustainability and labelling requirements, or that the economic operator has infringed other rules on the placing or making available on the market of packaging. In order to ensure uniform conditions for the implementation of the requirement on economic operators to take corrective action, ■ implementing *powers* should be ***conferred on*** the Commission to decide whether a national measure is justified or not.
- (127) In case of human health concerns, the market surveillance ***authority should*** not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities, competent for controlling the risks and appointed pursuant to Regulation (EU) 2017/625 of the European Parliament and of the Council ■ , Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.

- (128) Public procurement amounts to 14 % of the Union’s GDP. ***In order*** to contribute to the objective of reaching climate neutrality, improving energy and resource efficiency and transitioning to a circular economy that protects public health and biodiversity, the power to adopt ***implementing acts*** should be ***conferred on*** the Commission, **■** to require, where appropriate, contracting authorities and entities as defined in Directive 2014/24/EU of the European Parliament and of the Council<sup>48</sup> and Directive 2014/25/EU of the European Parliament and of the Council<sup>49</sup>, to align their procurement with specific ***minimum mandatory*** green public procurement ***requirements, to be set out in the implementing acts adopted pursuant to this Regulation***. Compared to a voluntary approach, mandatory ***requirements*** should ensure that the leverage of public spending to boost demand for better performing packaging is maximised. The ***requirements*** should be transparent, objective and non-discriminatory. ***Requirements may refer to technical specifications, selection criteria or contract performance conditions and not necessarily be required cumulative. Contracting authorities and entities should be able to, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum green public procurement requirements laid down in this Regulation.***
- (129) The implementing powers that are conferred on the Commission by this Regulation and that do not relate to the determination whether measures taken by Member States in respect of non-compliant packaging are justified or not should be exercised in accordance with Regulation (EU) No 182/2011.

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<sup>48</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

<sup>49</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

- (130) *In order to safeguard the functioning of the internal market, and create a level playing field, it is necessary to ensure that packaging from third countries entering the Union market complies with this Regulation, whether it is imported as self-standing packaging or in a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging.* Priority should be given to cooperation in the market between market surveillance authorities and economic operators. Therefore, whereas they may concern any packaging entering the Union market, interventions by authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 should focus primarily on packaging subject to prohibition measures taken by market surveillance authorities. In case they take such prohibition measures, and they are not restricted to the national territory, market surveillance authorities should communicate to authorities designated for the controls on packaging entering the Union market the details necessary for the identification of such non-compliant packaging at the borders, including information on the packaged products and the economic operators to enable a risk-based approach for products entering the Union market. In such cases, customs will aim at identifying and stopping this packaging at the borders.
- (131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS) and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to identify packaging that may correspond to such a prohibition measure. The electronic **Customs Risk Management System (CRMS)** set out in Article 36 of Commission Regulation (EU) 2447/2015 **,** without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.

- (132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts ■ in accordance with Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for that interconnection.
- (133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations *should* be conducted in accordance with the principles laid down in the *Interinstitutional* Agreement of 13 April 2016 on Better Law-Making<sup>51</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical information, including relevant international standards.
- (134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are subject to ■ appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ■ related to the *recycled plastic* content for plastic beverage bottles as of 1 January 2030 should be deleted from Directive (EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted.

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<sup>51</sup> OJ L 123, 12.5.2016, p. 1–14.

- (134a) *This Regulation establishes general rules applying to all packaging. However, certain single-use plastic products covered by Directive (EU) 2019/904, such as plastic carrier bags, beverages cups, food and beverage containers, including bottles, are considered to be packaging. Directive (EU) 2019/904 is a lex specialis in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application. Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Such marketing restrictions should apply and prevail over any conflicting provisions in this Regulation. This Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since national implementing measures under Directive (EU) 2019/904 can be less restrictive than a ban on the placing on the market, this Regulation should prevail over Directive (EU) 2019/904 as regards such products falling within the definition of packaging, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment. As a consequence, it should not be possible for Member States to adopt an exemption from the ban in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market. To reflect this, Directive (EU) 2019/904 should be amended accordingly.***
- (134b) *As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force until that date.***
- (135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability requirements, the economic operators placing non-compliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.**

- (135a) *Article 19(1) of the Treaty on European Union (TEU) requires Member States to provide remedies that are sufficient to ensure effective judicial protection in the fields covered by Union law, including the courts of the Member States. In this respect, Member States should ensure that members of the public concerned, that could include natural or legal persons having complained about or reported an alleged non-compliance of packaging or packaged product with this Regulation, has access to justice in line with the obligations that Member States have agreed to as parties to the UN Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 (the ‘Aarhus Convention’).*
- (136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.
- (137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.
- (138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC should therefore be repealed.



- (139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this **Regulation** should be deferred.
- (140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application of the system of own resources of the Union with regard to the own resource **based** on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.
- (141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, **be better** achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality ■ as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

# Chapter I

## General provisions

### *Article 1*

#### **Subject matter**

1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market. ***It also establishes requirements*** for the extended producer responsibility, ***packaging waste prevention, such as reduction in unnecessary packaging and reuse or refill of packaging, as well as*** collection ***and*** treatment, ***including*** recycling, of packaging waste.
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, ***the*** distortion and restriction of competition within the Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental protection.
3. This Regulation contributes to the transition to a circular economy ***and achieving climate neutrality at the latest by 2050 as provided for under Regulation (EU) 2021/1119***, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.

### *Article 2*

#### **Scope**

1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.

2. This Regulation applies without prejudice to *the provisions of the Directive 2008/98/EC as regards the management of hazardous waste as well as without prejudice to* Union regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the hygiene of the packed products, or to transport requirements. *However where this Regulation conflicts with Directive 2008/68/EC, Directive 2008/68/EC shall prevail.*

### Article 3

#### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘packaging’ means *an item, irrespective of the materials from which it is made, that is intended to be used by an economic operator for the containment, protection, handling, delivery or presentation of products to another economic operator or to an end-user* and that can be differentiated into packaging formats based on *its* function, material and design, including:
- (a) *an item that is* necessary to contain, support or preserve the product throughout its lifetime without being an integral part of the product which is intended to be used, consumed or disposed of together with the product;
  - (b) *a component of, and ancillary element to, an item referred to in point (a) that is* integrated into the item;
  - (c) *an ancillary element to an item referred to in point (a) that is* hung directly on, or attached to, the product and that *perform* a packaging function without being an integral part of the product *and* which is intended to be used, consumed or disposed of together with the product;
  - (d) *an item* designed and intended to be filled at the point of sale *to dispense the product, also referred to as ‘service packaging’.*
  - (e) *a* disposable *item* sold, filled or designed and intended to be filled at the point of sale *and which performs* a packaging function;

- (f) *permeable tea, coffee or other beverage bags or soft after-use system single-serve units that contain tea, coffee or other beverage and are intended to be used and disposed of together with the product;*
- (g) *non-permeable coffee, tea or other beverage system single-serve unit intended for use in a machine and which is used and disposed of together with the product;*
- (1a) *‘take-away packaging’ means service packaging filled at attended points of sale, with beverages or ready-prepared food, that is packaged for transportation and immediate consumption at another location without the need for any further preparation, and typically consumed from the packaging;*
- (1b) *‘primary production packaging’ means items designed and intended to be used as packaging for unprocessed products from primary production as defined in Regulation (EC) No 178/2002.*
- (2) ‘sales packaging’ means packaging conceived so as to constitute a sales unit consisting of products and packaging to the *end user* at the point of sale;
- (3) ‘grouped packaging’ means packaging conceived so as to constitute a grouping of a certain number of sales units at the point of sale, *irrespective of whether that grouping of sales units* is sold as such to the *end-user or whether* it serves **■** as a means to *facilitate the restocking of* shelves at the point of sale or *to* create a stock-keeping or distribution unit, and which can be removed from the product without affecting its characteristics;
- (4) ‘transport packaging’ means packaging conceived so as to facilitate handling and transport of *one or more* sales units or *a grouping of sales units, in order to prevent damage to the product from* physical handling and transport, *but excluding road, rail, ship and air containers;*
- (5) ‘e-commerce packaging’ means transport packaging used to deliver products in the context of sale online or through other means of distance sales to the end user;

- (6) ‘making available on the market’ means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (7) ‘placing on the market’ means the first making available of a packaging on the Union market;
- (8) ‘economic operator’ means manufacturers, suppliers of packaging, importers, distributors, *authorised representatives*, final distributors ■ and fulfilment service providers;
- (9) ‘manufacturer’ means any natural or legal person who manufactures packaging *or a packaged product. In case a natural or legal person has packaging or a packaged product designed or manufactured* under its own name or trademark, *regardless of whether any other trademarks is visible on the packaging or on the packaged product, it shall be considered the ‘manufacturer’ instead of the person who manufactures the* packaging *or the packaged product, except in the case of the paragraph below.*

*In case of transport packaging, reusable packaging, primary production packaging or service packaging, if the natural or legal person which has the packaging designed or manufactured under its own name or trademark falls under the definition of micro-enterprise in accordance with Commission Recommendation 2003/361/EC as publicly available on [OP: Please insert the date = the date of entry into force of this Regulation], and the provider of the packaging is located in the same Member State, then the provider of the packaging shall be considered the manufacturer.*

- (10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, *either:*
- (i) *is established in a Member State and makes available for the first time from within the territory of that Member State and on that same territory transport packaging, service packaging, including reusable service packaging or primary production packaging; or*

- (ii) *is established in a Member State and makes available for the first time from within the territory of that Member State and on that same territory products packaged in packaging other than those listed in paragraph (i); or*
- (iii) *is established in a Member State or in a third country and makes transport packaging, service packaging, reusable packaging or primary production packaging or products packaged in packaging other than those mentioned above available for the first time within the territory of another Member State, directly to end-users; or*
- (iv) *is established in a Member State and unpacks packaged products without being end-user, unless another person is the producer according to (i) to (iii).*
- (11) ‘supplier’ means any natural or legal person who supplies packaging or packaging material to a manufacturer ■ ;
- (12) ‘importer’ means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;
- (13) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;
- (14) ‘authorised representative’ means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer’s obligations under this Regulation;
- (15) ‘*authorised* representative for the extended producer responsibility’ means a *natural or legal* person established in a Member State where the producer makes packaging *or packaged product* available on the market *of the Member State* for the first time, other than the Member State *or the third country* where the producer is established ■ and who is appointed by the producer in accordance with third subparagraph of Article 8a(5) of Directive 2008/98/EC for fulfilling the obligations of that producer under Chapter VII of this Regulation;

- (16) ‘final distributor’ means the distributor who delivers packaged products, ***including through re-use***, or products that can be purchased through refill to the end user;
- (17) ‘consumer’ means ***any natural person who is*** acting for purposes which are outside their trade, business or profession;
- (18) ‘end user’ means any natural or legal person residing or established in the Union, to whom a product has been made available either as a consumer or as a professional end user in the course of its industrial or professional activities and who no longer makes ***that*** product further available on the market in the form supplied to it;
- (19) ‘composite packaging’ means a unit of packaging made of two or more different materials, ***which are part of the weight of the main packaging material and*** cannot be separated manually and therefore form a single integral unit, ***unless a given material constitutes an insignificant part of the packaging unit and in no case more than 5% of the total mass of the packaging unit and excluding labels, varnishes, paints, inks, adhesives, lacquers. This is without prejudice to Directive 2019/904***;
- (20) ‘packaging waste’ means any packaging or packaging material falling within the definition of waste laid down in Article 3 of Directive 2008/98/EC, with the exception of production residues;
- (21) ‘packaging waste prevention’ means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, ***including measures as regards the re-use of the packaging and measures to extend the life of the packaging before it becomes waste***;
- (22) ‘re-use’ means any operation by which reusable packaging is used again ***multiple times*** for the same purpose for which it was conceived;
- (23) ‘single-use packaging’ means packaging which is not reusable packaging;

- (24) ‘rotation’ means the cycle that reusable packaging accomplishes from the moment it is placed on the market together with the **product** it is intended to contain, protect, handle, deliver or present, to the moment it is ready for being reused in a system for re-use with a view to it being supplied again to the end users together with **another product**;
- (25) ‘trip’ means transfer of packaging, from filling or loading to emptying or unloading, as part of a rotation or on its own;
- (26) ‘systems for re-use’ means organisational, technical **■** or financial arrangements, **together with incentives, that allow** the re-use either in a closed loop or open loop system. **It includes** deposit and return systems, when they ensure that packaging is collected for re-use **■** ;
- (27) ‘reconditioning’ means **any operations listed in part B of Annex VI** necessary to restore a reusable packaging to a functional state for the purpose of its re-use;
- (28) ‘refill’ means an operation by which **a container, owned by the end user**, which fulfils the packaging function, **or a container purchased by the end user at the point of sale of the final distributor is filled by the end user or by the final distributor with a product or several products purchased by the end user from the final distributor**;
- (29) ‘refill station’ means a place, where a final distributor offers to **end-users** products that can be purchased through refill;
- (30) ‘HORECA sector’ means Accommodation and Food Service Activities according to NACE Rev. 2 – Statistical classification of economic activities<sup>52</sup>;
- (30a) ‘sales area’ means the area given to the display of goods offered for sale, to the payment thereof, and to the stay and circulation of customers. This does not include the areas, which are not open to the public, such as storage areas, or other areas where products are not displayed, such as car parks. In the context of e-commerce packaging, the storage and dispatch area shall be considered as sales area;**

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<sup>52</sup> NACE Rev. 2 - Statistical classification of economic activities - Products Manuals and Guidelines - Eurostat (europa.eu); Accommodation and food service statistics - NACE Rev. 2 - Statistics Explained (europa.eu)



- (31) ‘design for recycling’ means design of packaging, including individual components of packaging, *that ensures the recyclability of the packaging with established collection, sorting and recycling processes proven in an operational environment;*
- (31a) ‘recyclability’ means the compatibility of packaging with the management and processing of waste by design, based on separate collection, sorting in separate streams, recycling at scale, and use of recycled materials to replace primary raw materials;*
- (32) ‘packaging waste recycled at scale’ means: *packaging waste which is separately collected, sorted and recycled in installed infrastructure, using established processes proven in an operational environment which ensure at EU level an annual quantity of recycled material under each packaging category listed in table 1a Annex II, equal or greater than 30% for wood and 55% for all other materials. This includes such packaging waste exported from the Union for the purpose of waste management which can be considered as meeting the requirements of Article 47(12).*
- (32a) ‘material recycling’ means any recovery operation, by which waste materials are reprocessed into materials or substances whether for the original or other purposes, with the exception of biological treatment of waste, reprocessing of organic material, energy recovery, and reprocessing into materials that are to be used as fuels or for backfilling operations.*
- (32b) ‘high-quality recycling’ means any recycling process which produces recycled materials that are of equivalent quality to the original materials, based on preserved technical characteristics, and is used as a substitute to primary raw materials for packaging or other applications where the quality of the recycled material is retained.*
- (33) ‘packaging category’ means a combination of material and specific packaging design, which determines *recyclability by reference to established* state of the art collection, sorting and recycling processes; *proven in an operational environment* and is relevant for the definition of the design for recycling criteria;

- (34) ‘integrated component’ means a packaging component that may be distinct from the main body of the packaging unit, and may be of a different material, but **that** is integral to the packaging unit and its functioning, does not need to be separated from the main packaging unit in order to **ensure its functionality** and is typically discarded at the same time as the packaging unit, although not necessarily in the same disposal route;
- (35) ‘separate component’ means a packaging component that is distinct from the main body of the packaging unit, which **is** of a different material, that needs to be disassembled completely and permanently from the main packaging unit **■**, and that is typically discarded prior to and separately from the packaging unit, **and covers packaging components that can be separated from each other simply through mechanical stress during transportation or sorting**;
- (36) ‘unit of packaging’ means a unit as a whole, including any integrated or separate components, which together serve a packaging function such as the containment, protection, handling, delivery, storage, transport and presentation of products, and including independent units of grouped or transport packaging where they are discarded prior to the point of sale;
- (37) ‘innovative packaging’ means a form of packaging that is manufactured using new materials, **■** resulting in a significant improvement in the functions of packaging, such as containment, protection, handling, **or delivery** of products, and in **overall** demonstrable environmental benefits, with the exception of packaging that is the result of modification of existing packaging for the **main** purpose of improved presentation of products and marketing;
- (38) ‘secondary raw materials’ means materials that have **undergone all necessary checking and sorting and** been obtained through recycling processes and **that** can substitute primary raw materials;
- (39) ‘post-consumer plastic waste’ means **■** waste, **as defined in Article 3(1) of Directive 2008/98/EC**, that is **plastic and that has been** generated from plastic products that have been **supplied for distribution, consumption or use and** placed on the market **of a Member State or of a third country**;

- (40) ‘contact sensitive packaging’ means packaging that is intended to be *applied to products* in the scope of Regulations: (EC) No 1831/2003, (EC) No 1935/2004, (EC) No 767/2009, (EC) No 2009/1223, (EU) 2017/745, (EU) 2017/746, (EU) 2019/4, (EU) 2019/6, Directive 2001/83/EC, *Directive 2008/68/EC or for products as defined in Article 1 and 2 of Commission Decision (EU)2023/1809, Directive 2002/46/EC of the European Parliament and of the Council*<sup>53</sup>, or Directive 2008/68/EC;
- (41) ‘compostable packaging’ means packaging *that biodegrades or is* capable of undergoing *biological decomposition, combined if necessary with physical treatment, only in industrially controlled conditions, including anaerobic digestion, resulting ultimately in conversion* into carbon dioxide *or in the absence of oxygen, methane*, mineral salts, biomass and water ■ and does not hinder *or jeopardise* the separate collection and the composting *and anaerobic digestion process*;
- (41a) ‘home compostable packaging’ means packaging that can biodegrade in non-controlled conditions that are not industrial scale composting facilities and the composting process of which is performed by private individuals with the aim of producing compost for their own use;*
- (41b) ‘biobased plastics’ means plastics made from biological resources such as biomass feedstock, organic waste or by-products. Biobased plastic can be both, biodegradable or non-biodegradable;*
- (42) ‘single use plastic beverage bottles’ means beverage bottles listed in Part F of the Annex to Directive (EU) 2019/904;
- (43) ‘plastic’ means a *material consisting of a* polymer within the meaning of Article 3, *point 5*, of Regulation (EC) No 1907/2006, to which additives or other substances may have been added, and which is capable of functioning as a main structural component of packaging, with the exception of natural polymers that have not been chemically modified;

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<sup>53</sup> *Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 51).*

- (44) ‘plastic carrier bags’ means carrier bags, with or without handle, made of plastic, which are supplied to consumers at the point of sale of products;
- (45) ‘lightweight plastic carrier bags’ means plastic carrier bags with a wall thickness below 50 microns;
- (46) ‘very lightweight plastic carrier bags’ means plastic carrier bags with a wall thickness below 15 microns;
- (47) ‘thick plastic carrier bags’ means plastic carrier bags with a wall thickness between 50 and 99 microns;
- (48) ‘very thick plastic carrier bags’ means plastic carrier bags with a wall thickness above 99 microns;
- (49) ‘waste receptacles’ means *receptacles* used to store and collect waste, *for example containers, bins and bags*;
- (50) ‘deposit’ means a *defined* sum of money, not being part of the price of a packaged or filled product that is collected from the end user when purchasing such packaged or filled product, covered by a deposit and return system in a given Member State and redeemable when the end user *or any person* returns the deposit bearing packaging to a collection point established for that purpose;
- (51) ‘deposit and return system’ means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by *that* system, and redeemed ■ when the deposit bearing packaging is returned *through one of the collection channels that are authorised* for that purpose *by the national authorities*;
- (52) ‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a product, process or service;
- (53) ‘harmonised standard’ means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;
- (54) ‘conformity assessment’ means the process demonstrating whether the sustainability, safety, labelling and information requirements of this Regulation, relating to a packaging, have been fulfilled;

- (55) ‘producer responsibility organisation’ means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;
- (56) ‘life-cycle’ means the consecutive and interlinked stages *of a packaging’s life, consisting of* raw material acquisition or generation from natural resources, *pre-processing, manufacturing, storage, distribution, use, repair, re-use, and end-of-life*;
- (57) ‘packaging presenting a risk’ means a packaging that, by not complying with a requirement set out in or pursuant to this Regulation other than those listed in Article 56(1), may adversely affect the environment, *health*, or other public interests protected by that requirement;
- (58) ‘packaging presenting a serious risk’ means ■ packaging presenting a risk for which, based on an assessment, the degree of the relevant non-compliance or the associated harm is considered to require rapid intervention by the market surveillance authorities, including cases where the effects of the non-compliance are not immediate;
- (59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;
- (60) ‘waste’ means waste as defined in Article 3, point (1), of Directive 2008/98/EC. *Reusable packaging sent to reconditioning is not considered to be waste*;
- (61) *‘public contracts’ means public contracts as defined in Article 2, point (5), of Directive 2014/24/EU or as referred to in Directive 2014/25/EU*;

2. *In addition to the definitions referred to in paragraph 1, the following definitions apply:*

■ ‘waste management’, ‘collection’, *treatment*, ‘separate collection’, ‘extended producer responsibility scheme’, ‘preparing for re-use’ ■ and ‘recycling’, laid down in Article 3 ■ of Directive 2008/98/EC ■ ;

■ ‘market surveillance’, ‘market surveillance authority’, ‘fulfilment service provider’, ‘corrective action’, ‘recall’, ‘withdrawal’ and ‘risk’, laid down in Article 3 ■ of Regulation (EU) 2019/1020;

‘*substances* of concern’ and ‘data carrier’, laid down in Article 2 of Regulation [Ecodesign for sustainable products].

An indicative list of items falling within the definition of packaging in *paragraph 1*, point (1), is set out in Annex I.

#### *Article 4*

#### **Free movement**

1. Packaging shall only be placed on the market if it complies with this Regulation.
2. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the sustainability, *labelling and information* requirements set out in Articles 5 to *11*.
3. █
4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements.
5. █
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it has been brought into conformity.

## Chapter II

### Sustainability requirements

#### Article 5

#### Requirements for substances in packaging

1. Packaging *placed on the market* shall be so manufactured that the presence and concentration of substances of concern as constituents of the packaging material or of any of the packaging components is minimised, including with regard to their presence in emissions and any outcomes of waste management, such as secondary raw materials, ashes or other material for final disposal, *and the adverse impact on the environment due to micro-plastics*.

*1a. The Commission shall monitor the presence of substances of concern in packaging and in packaging components and shall take, where appropriate, the relevant follow-up measures.*

*By 31 December 2026, the Commission, assisted by the European Chemicals Agency, shall prepare a report on the presence of substances of concern in packaging and packaging components, to determine the extent to which they negatively affect the re-use and recycling of materials or impact chemical safety. This report may list the substances of concern present in packaging and packaging components and indicating the extent to which they may present an unacceptable risk to human health and the environment.*

*The Commission shall submit the report to the European Parliament, to the Council and to the Committee referred to in Article 59 of this Regulation detailing its findings and shall consider appropriate follow-up measures, including:*

*a) for substances of concern in packaging materials which primarily affect human health or the environment, the use of the procedures referred to in Article 68(1) and (2) of Regulation (EC) No 1907/2006 to adopt new restrictions;*

*b) for substances of concern that negatively affect the re-use and recycling of materials in the packaging in which they are present, the establishment of restrictions as a part of design for recycling criteria in accordance with Article 6(4) of this Regulation.*

*If a Member State considers that a substance negatively affects the re-use and recycling of materials in the packaging in which it is present it shall, by 31 December 2025, supply such information to the Commission and the European Chemicals Agency and, where available, refer to the relevant risk assessments or other relevant data.*

*1b. Member States may request the Commission to consider restricting the use of substances of concern that potentially negatively affect the re-use and recycling of materials in packaging in which they are present, for reasons other than those related primarily to their chemical safety, under the provision of Article 6(4)(a). Member States shall accompany such requests with a report documenting the identity and uses of the substance and a description of how the use of the substances in packaging hinders recycling, for reasons other than those related primarily to chemical safety. The Commission shall evaluate the request and present the results of this evaluation to the Committee referred to in Article 59.*

2. Without prejudice to the restrictions on chemicals set out in Annex XVII of Regulation (EC) No 1907/2006 or, where applicable, to the restrictions and specific measures on food contact *materials and articles* in Regulation (EC) No 1935/2004, the sum of concentration levels of lead, cadmium, mercury and hexavalent chromium resulting from substances present in packaging or packaging components shall not exceed 100 mg/kg.

*2a. From ... [OP: Please insert the date = 18 months from the date of entry into force of this Regulation], food contact packaging shall not be placed on the market if it contains per- and polyfluorinated alkyl substances (PFASs) in a concentration of or above the following limit values to the extent that the placing on the market of this packaging containing this concentration of PFAS is not prohibited pursuant to another Union legal act:*

*1. 25 ppb for any PFAS as measured with targeted PFAS analysis (polymeric PFASs excluded from quantification);*



2. *250 ppb for the sum of PFASs measured as sum of targeted PFAS analysis, optionally with prior degradation of precursors (polymeric PFASs excluded from quantification); and*
3. *50 ppm for PFASs (polymeric PFASs included). If total fluorine exceeds 50 mg F/kg the manufacturer, importer or downstream user shall upon request provide to the enforcement authorities a proof for the fluorine measured as content of either PFASs or non-PFASs.*

*For the purpose of this Regulation, PFAS consist of any substance that contains at least one fully fluorinated methyl (CF<sub>3</sub>-) or methylene (-CF<sub>2</sub>-) carbon atom (without any H/Cl/Br/I attached to it), except substances that only contain the following structural elements: CF<sub>3</sub>-X or X-CF<sub>2</sub>-X', where X = -OR or -NRR' and X' = methyl (-CH<sub>3</sub>), methylene (-CH<sub>2</sub>-), an aromatic group, a carbonyl group (-C(O)-), -OR'', -SR'' or -NR''R'''; and where R/R'/R''/R''' is a hydrogen (-H), methyl (-CH<sub>3</sub>), methylene (-CH<sub>2</sub>-), an aromatic group or a carbonyl group (-C(O)-).*

*By ... [4 years from the date of application of this Regulation], the Commission shall carry out an evaluation to assess the need to amend or repeal this paragraph in order to avoid overlaps with restrictions or prohibitions of the use of PFAS set out in accordance with Regulation (EC) No 1907/2006, Regulation (EU) 2019/1021 or Regulation (EC) No 1935/2004.*

3. Compliance with the requirements set out in *paragraphs 2 and 2a* shall be demonstrated in the technical documentation drawn up in accordance with Annex VII.
4. █
5. In order to take account of █ scientific and technical progress, the Commission may adopt delegated acts in accordance with Article 58, to amend this Regulation in order to *lower the sum of concentration levels of lead, cadmium, mercury and hexavalent chromium resulting from substances present in packaging or packaging components referred to in paragraph 2;*
  - (a) █

(b) *In order to take account of scientific and technical progress, the Commission may adopt delegated acts in accordance with Article 58, to supplement this Regulation in order to determine the conditions under which the concentration level referred to in paragraph 2 shall not apply to recycled materials or to product loops, which are in a closed and controlled chain, as well as to determine the packaging types or formats of packaging, based on the packaging categories listed in Table 1 of Annex II, which shall be exempted from the requirements laid down in that paragraph. Such delegated acts shall be justified on the basis of a case by case analysis, time-limited, provide for appropriate marking and information requirements, and contain requirements for regular reporting in order to ensure that the exemption is regularly reviewed. Delegated acts adopted in accordance with this paragraph shall only be adopted to amend exemptions established in Commission Decisions 2001/171/EC and 2009/292/EC.*

5b. *By ... [7 years from the date of application of this Regulation], the Commission shall carry out an evaluation to assess whether this Article and design for recycling criteria set out in accordance with Article 6(4) have contributed sufficiently to minimising the presence and concentration of substances of concern as constituents of packaging materials.*

## Article 6

### Recyclable packaging

1. All packaging *placed on the market* shall be recyclable.
2. Packaging shall be considered recyclable *if it fulfils* the following *conditions*:
  - (a) it is designed for *material* recycling, *which enables the use of resulting secondary raw materials that are of sufficient quality when compared to the original material that it can be used to substitute primary raw materials, in accordance with paragraph 4. Packaging that is in compliance with the delegated acts adopted pursuant to paragraph 4 shall be deemed to comply with this condition.*
  - (b) █
  - (c) █

(d) █

(e) *When it becomes waste, it can be separately collected in accordance with Article 43(1) and (2), sorted into specific waste streams without affecting the recyclability of other waste streams and recycled at scale, on the basis of the methodology set out in accordance with paragraph 6.*

*Packaging that is in compliance with the delegated acts adopted pursuant to paragraph 4 and implementing acts adopted pursuant to paragraph 6, shall be deemed to comply with both conditions set out in this paragraph.*

*Paragraph 2, point (a), shall apply from 1 January 2030 or two years after the date entry into force of the delegated acts referred to in paragraph 4, whichever is the latest.*

*Paragraph 2, point (b), shall apply from 1 January 2035 or five years after the date entry into force of the implementing acts referred to in paragraph 6, whichever is the latest.*

3. *The manufacturer, in accordance with Article 13, shall assess the packaging recyclability on the basis of the delegated acts █ pursuant to paragraph 4 and the implementing acts pursuant to paragraph 6. Packaging recyclability shall be expressed in the recyclability performance grades A, B or C described in Table 2 of Annex II.*

*Without prejudice to paragraph 9, by 1 January 2030 or 24 months after entry into force of the delegated acts pursuant to paragraph 4, whichever is the latest, packaging shall not be placed on the market unless it is recyclable within grades A, B or C.*

*Without prejudice to paragraph 9, by 1 January 2038 packaging shall not be placed on the market unless it is recyclable within grades A or B.*

4. *By 1 January 2028, the Commission shall, after taking into consideration standards developed by the European Standards Organisations, adopt delegated acts to establish:*

(a) *design for recycling criteria and recycling performance grades based on Table 2 and the parameters listed in Table 2a of Annex II for packaging categories listed in Table 1 of that Annex.*

*Design for recycling criteria and recyclability performance grades will be developed on the basis of the predominant material and shall:*

- (i) *take into account the ability of packaging waste to be separated into different material streams for recycling, sorted and recycled, so that the resulting secondary raw materials are of sufficient quality compared to the original material and can be used to substitute primary raw materials for packaging or other applications where the quality of the recycled material is retained, where feasible.*
  - (ii) *consider established collection and sorting processes proven in an operational environment and shall cover all packaging components ;*
  - (iia) *take into account available recycling technologies, their economic and environmental performance, including the quality of the output, the availability of the waste, the energy needed and GHG emissions;*
  - (iii) *as appropriate, identify substances of concern that negatively affect the re-use and recycling of materials in the packaging in which they are present;*
  - (iv) *as appropriate, impose restrictions on the presence of such substances or groups of such substances, in packaging or packaging components for reasons not relating primarily to chemical safety. Such restrictions may also serve to reduce unacceptable risks to human health or the environment, without prejudice to restrictions on chemicals set out in Annex XVII of Regulation (EC) No 1907/2006 or, where applicable, the restrictions and specific measures on food contact materials and articles in Regulation (EC) No 1935/2004.*
- (b) *how to perform recyclability performance assessment and express its result in recyclability performance grades per packaging unit, in terms of weighting, including material-specific criteria and sorting efficiency to determine whether packaging is recyclable under paragraph 2;*
  - (c) *a description, for each packaging category listed in Table 1 of Annex II, of the conditions for compliance with the respective performance grades;*
  - (d) *a framework concerning the modulation of financial contributions to be paid by producers to comply with their extended producer responsibility obligations set out in Article 40(1), based on the packaging recycling performance grades.*

*When adopting the delegated acts referred to in the first subparagraph, the Commission shall take into account the results of the assessment, if any, carried out pursuant to Article (5)(1)(a). Those delegated acts shall be adopted in accordance with Article 58.*

The Commission is empowered to adopt delegated acts in accordance with Article 58 to amend Table 1 of Annex *II* in order to adapt it to *the* scientific and technical *developments* in material and product design, *and* collection, sorting and recycling infrastructure. *The Commission is empowered to adopt design for recycling criteria for additional packaging categories or to create sub-categories within the categories listed in Table 1 of Annex II.*

*Economic operators shall comply with the new or updated design for recycling criteria at the latest by three years after the entry into force of the relevant delegated act.*

5. █

6. *By 1 January 2030, the Commission shall adopt implementing acts*

*(a) establishing the methodology for the recycled at scale assessment per packaging category listed in Table 1a of Annex II, supplementing Table 2 of Annex II with thresholds for the recyclability at scale assessment and, if necessary, updating the overall recyclability performance grades described in Table 2 of Annex II.* That methodology shall be based *on*, at least, the following elements:

*(i) quantities of packaging per packaging category listed in Table 1a of Annex II placed on the market in the Union as a whole and in each Member State;*

*(ii) quantities of recycled packaging waste, as calculated at the calculation point in accordance with implementing act adopted under Article 50(7)(a), per packaging category listed in Table 1a of Annex II, in the Union as a whole and in each Member State.*

(b) █

*(c) the chain of custody mechanism ensuring that packaging is recycled at scale. Such chain of custody mechanism shall be based on at least the following elements:*

*(i) technical documentation referring to the amount of collected packaging waste that are sent to sorting and recycling facilities.*

- (ii) *a verification process that allows manufacturers to obtain the necessary data from the downstream operators ensuring that packaging is recycled at scale. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).*

*The data referred to in points (a) to (c) shall be available and easily accessible by the public.*

(d) █

*6aaa. The Commission shall assess the granularity of data that need to be reported for the recycled at scale methodology. Where appropriate, the Commission shall adopt delegated acts in accordance with Article 58 to amend Table 1a of Annex II and Table 4 of Annex XII to adapt them to technical and scientific development.*

*6aab. By 2035, the Commission, on the basis of development of the sorting and recycling technologies, may review the minimum threshold for packaging to be considered recycled at scale as laid down in Article 3(1)(32) and, where necessary, present a legislative proposal to revise them.*

*6aa. 18 months from the date of entry into force of the delegated acts pursuant to paragraph 4 and implementing acts pursuant to paragraph 6, in order to increase the level of recyclability of packaging, the financial contributions paid by producers to comply with their extended producer responsibility obligations as laid down in Article 40 shall be modulated according to the recyclability performance grades, as detailed in the delegated acts pursuant to paragraph 4 and implementing acts pursuant to paragraph 6.*

*When applying such criteria, Member States shall take into account the technical feasibility and economic viability of recycling of packaging materials referred to in Article 6, paragraph 10, point (cc).*

7. █

8. Compliance with the requirements set out in paragraphs 2 and 3 shall be demonstrated in the technical documentation concerning the packaging as set out in Annex VII.

Where a unit of packaging includes integrated components, the assessment of compliance with the design for recycling criteria and with the at scale recyclability requirements shall include all integrated components. ***A separate assessment shall be carried out for integrated components that may separate from each other through mechanical stress during transportation or sorting.***

Where a unit of packaging includes separate components, the assessment of compliance with the design for recycling requirements and with the at scale recyclability requirements shall be ***carried out*** separately for each separate component.

All components of a unit of packaging shall be compatible with the ***established*** collection, sorting and recycling processes ***proven in an operational environment*** and shall not hinder the recyclability of the main body of the unit of packaging.

9. ***By derogation from paragraphs 2 and 3, from 1 January 2030, innovative packaging that does not comply with the requirements under paragraph 2 may be placed on the market for a maximum period of 5 years after the end of the calendar year when it was first placed on the market.***

Where use is made of this derogation, ***the economic operator shall notify the competent authority before the innovative packaging is placed on the market and include all technical details demonstrating that the packaging is innovative packaging. That notification shall include a timeline to reach ‘at scale’ recyclability requirements in terms of collection and recycling of the innovative packaging. The information shall be made available to the Commission and the national authorities carrying out market surveillance.***

***If the competent authority considers that the packaging is not innovative packaging, the economic operator shall comply with the existing design for recycling criteria.***

***If the competent authority considers that the packaging is innovative packaging, it shall inform the Commission thereof.***

***The Commission shall assess requests by competent authorities in relation to innovative nature of packaging and update or adopt new delegated acts under paragraph 4 of this Article, as appropriate.***

After the period referred to in the first sub-paragraph, such packaging shall be accompanied by the technical documentation referred to in paragraph 8 **and shall therefore be in compliance with the requirements set out in this Article.**

***The Commission shall monitor the impact of the derogation referred to in the first subparagraph on the amount of packaging placed on the market. The Commission shall, where appropriate, adopt a legislative proposal with a view to amending the first subparagraph.***

***Member States shall continuously aim to improve collection and sorting infrastructures for innovative packaging with expected environmental benefits.***

10. ■ This Article shall not apply to the following:

(a) immediate packaging as defined in Article 1, point (23), of Directive 2001/83/EC and in Article 4, point 25, of Regulation (EU) 2019/6;

(b) contact sensitive ■ packaging of medical devices ***made of plastics*** covered by Regulation (EU) 2017/745;

(c) contact sensitive ■ packaging of in vitro diagnostics medical devices ***made of plastics*** covered by Regulation (EU) 2017/746.

***(ca) outer packaging as defined in Article 1, point (24), of Directive 2001/83/EC and in Article 4, point (26), of Regulation (EU) 2019/6 in cases where such packaging is necessary to comply with specific requirements to preserve the quality of the medicinal product;***

***(caa) contact sensitive packaging for infant formula and follow-on formula, processed cereal-based food and baby food, and food for special medical purposes as defined in Article 1, points (a), (b) and (c), of Regulation (EU) No 609/2013.***

***(cb) packaging used for the transport of dangerous goods under Directive 2008/68/EC.***

***(cc) Sales packaging made from lightweight wood, cork, textile, rubber, ceramic, porcelain or wax. However, paragraph 6aa shall apply to this packaging.***



(cd) *By 1 January 2035, the Commission shall review the exceptions under paragraph 10 taking into account, at least, the evolution of sorting and recycling technologies and practical experience gained by the economic operators and Member States. On this basis, it shall assess the appropriateness of their continuity and, where necessary, present a legislative proposal.*

11.

## Article 7

### Minimum recycled content in plastic packaging

1. *By 1 January 2030 or three years after the date into force of the implementing act referred to in paragraph 7, whichever is the latest, any plastic part of packaging placed on the market, shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per packaging type and format as referred to in Table 1 of Annex II, calculated as an average per manufacturing plant and year:*
  - (a) 30 % for contact sensitive packaging, *except single use beverage bottles*, made from polyethylene terephthalate (PET) as the major component;
  - (b) 10 % for contact sensitive packaging made from plastic materials other than PET, except single use plastic beverage bottles;
  - (c) 30 % for single use plastic beverage bottles;
  - (d) 35 % for *plastic* packaging other than those referred to in points (a), (b) and (c).
2. *By 1 January 2040, any plastic part of packaging placed on the market shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per packaging type and format as referred to in Table 1 of Annex II, calculated as an average per manufacturing plant and year:*
  - (a) 50 % for contact sensitive █ packaging, except single use █ beverage bottles, *made from polyethylene terephthalate (PET) as the major component*;

- (aa) 25% for contact sensitive packaging made from plastic materials other than PET.*
- (b) 65 % for single use plastic beverage bottles;*
- (c) 65 % for plastic packaging other than those referred to in points (a) and (b);*
- 2a. For the purposes of this Article, recycled content shall be recovered from post-consumer plastic waste that either has been collected within the Union pursuant to this Regulation, the national rules transposing Directive (EU) 2019/904 and Directive 2008/98/EC, as relevant, and, where applicable, has been recycled in an installation located within the Union to which Directive 2010/75/EU applies or*
  - (i) it has been collected in a third country in accordance with standards for separate collection to promote high quality recycling equivalent to those referred to in this Regulation, Directive (EU) 2019/904 and Directive 2008/98/EC, as relevant, and*
  - (ii) it has been recycled in an installation located in a third country to which rules concerning the prevention and reduction of emissions into air, water and land associated to the recycling operations apply. Those rules shall be equivalent to those concerning emissions limits and environmental performance levels established in accordance with Directive 2010/75/EU that are applicable to an installation established in the Union carrying out the same activity. This condition shall apply only in case those limits and levels would be applicable to an installation located in the Union and carrying out the same activity as an analogous installation located in the third country.*

3. Paragraphs 1 and 2 shall not apply to the following:

- (a) immediate packaging as defined in Article 1, point (23), of Directive 2001/83/EC and in Article 4, point (25), of Regulation (EU) 2019/6;*
- (b) contact sensitive plastic packaging of medical devices, **devices exclusively destined for research use and investigational devices** covered by Regulation (EU) 2017/745;*
- (c) contact sensitive plastic packaging of in vitro diagnostics medical devices covered by Regulation (EU) 2017/746;*

(d) outer packaging as defined in Article 1, point (24), of Directive 2001/83/EC and in Article 4, point (26), of Regulation (EU) 2019/6 in cases where such packaging is necessary to comply with specific requirements to preserve the quality of the medicinal product.

**(e) *compostable plastic packaging;***

**(ea) *packaging used for the transport of dangerous goods provided for in Directive 2008/68/EC.***

**(eb) *contact sensitive plastic packaging for food only intended for infants and young children, food for special medical purposes and packaging for drinks and food typically used for young children as defined in Article 1, points (a), (b) and (c), of Regulation (EU) No 609/2013;***

**(ec) *packaging of supplies, components, and immediate packaging components for the manufacturing of medicinal products under Directive 2001/83/EC and for veterinary medicinal products under Regulation (EU) 2019/6 where such packaging is needed to be in line with the quality standards of the medicinal product.***

4. Paragraphs 1 and 2 shall not apply to:

**(a) *plastic packaging intended to come into contact with food in case the amount of recycled content poses a threat to human health and results in non-compliance of packaged products with Regulation (EC) 1935/2004;***

**(b) *to any plastic part representing less than 5% of the total weight of the whole packaging unit.***

5. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated **by economic operators** in the technical information concerning the packaging referred to in Annex VII.

6. **█** The financial contributions paid by producers to comply with their extended producer responsibility obligations as laid down in Article 40 *may* be modulated based on the percentage of recycled content used in the packaging. *Any such modulation shall take into account sustainability criteria of the recycling technologies and the environmental costs for the purposes of recycled content.*

7. By 31 December 2026, the Commission *shall* adopt implementing acts establishing the methodology for the calculation and verification of the percentage of recycled content, recovered from post-consumer plastic waste *recycled and collected within the Union with the conditions set out in paragraph 2a, as well as* the format for the technical documentation referred to in Annex VII. *For that purpose, the Commission shall take into account the use of resulting secondary raw materials that are of sufficient quality when compared to the original material that they can be used to substitute primary raw materials. The verification methodology can include the obligation to carry independent third-party audit on manufacturers of recycled content in the Union and plastic packaging placed on the market as a sales unit separate from other products to ensure that the conditions set out in paragraph 2a and in the delegated act under para. [7a(new)] below are met.*

*When adopting the implementing acts, the Commission shall assess, in view of the available recycling technologies, their economic and environmental performance, including the quality of the output, the availability of the waste, the energy needed and greenhouse gas emissions and other relevant environmental impacts.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

7a. *On the basis of the assessment referred to in the last sentence of paragraph 7 above, the Commission shall adopt by 31 December 2026 delegated acts supplementing this Regulation with sustainability criteria for plastic recycling technologies. For the purposes of this Article, recycled content shall be recovered from post-consumer plastic waste that either has been recycled in:*

- (i) *installations located within the Union using recycling technologies which meet such sustainability criteria established pursuant to this paragraph, or*
- (ii) *installations is located in a third country installation using recycling technologies in accordance with standards equivalent to the sustainability criteria developed under the delegated acts.*

7b. *By 31 December 2026, the Commission shall adopt an implementing act establishing the methodology for assessing, verifying and certifying, included through third-party audit, the equivalence of the rules applied in case the recycled content recovered from post-consumer plastic waste is recycled and collected outside the Union. The assessment shall consider the level of protection of environment and human health, the need to ensure that recycling is performed in an environmentally-sound manner, the possibility to ensure high quality recycling, the level of the quality standards for the recycling sectors, and the level of resource efficiency. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).*

8. *By 1 January 2029 or two years after the date into force of the implementing act referred to in paragraph 7, whichever the latest, the calculation and verification of the percentage of recycled content contained in packaging under paragraph 1 shall comply with the rules laid down in the implementing act referred to in paragraph 7.*

9. By 1 January 2028, the Commission shall assess the need for derogations from the minimum percentage laid down in paragraph 1, points **(b) and (d)**, for specific plastic packaging, or for the revision of the derogation established under paragraph 3 for specific plastic packaging.

Based on *that* assessment, *where suitable recycling technologies to recycle plastic packaging are not available because they are not authorised under the relevant Union rules or are not sufficiently installed in practice, taking into account any safety related requirements, especially concerning contact sensitive plastic packaging, including food packaging*, the Commission is empowered to adopt delegated acts in accordance with Article 58 to amend this Regulation in order to:

- (a) provide for derogations from the scope, timing or level of minimum percentage laid down in paragraph 1, points **(b) and (d)**, for specific plastic packaging; *and*

(b) *as appropriate, amend the list of* the derogations established in paragraph 3,

■

10. Where justified by the lack of availability or excessive prices of specific recycled plastics that *can* have adverse effects on human or animal health, security of food supply or the environment, making compliance with the minimum percentages of recycled content set out in paragraphs 1 and 2 excessively difficult, the Commission shall be empowered to adopt a delegated act in accordance with Article 58 to amend paragraphs 1 and 2 by adjusting the minimum percentages accordingly. In evaluating the justification of such adjustment, the Commission shall assess requests from natural or legal persons to be accompanied by relevant information and data on the market situation for this post-consumer plastic waste and best available evidence regarding the related risks to human or animal health, to the security of food supply or to the environment. ***The Commission shall adopt the delegated act only in exceptional cases where there would be severe adverse effects for human or animal health, the security of food supply or the environment.***
- 10a. ***By [7 years after the entry into force of this Regulation], taking into account the evolution of the state of the art of the technology and the practical experience gained by economic operators and Member States, the Commission shall present a report reviewing the implementation of the 2030 minimum percentage of recycled content set out in this Article, and evaluating to what extent these percentages lead to solutions fostering sustainable packaging that are effective and easy to implement, the feasibility of the achievement of percentages set for 2040 on the basis of the experience in achieving the 2030 percentages and the evolving circumstances, the relevance of maintaining the exemptions and derogations set out in this Article, and the necessity or pertinence of setting new minimum percentages of recycled content. This report shall, where appropriate, be accompanied by a legislative proposal amending this Article, in particular the 2040 minimum percentages of recycled content.***
11. By ... [7 years from the date of entry into force of this Regulation], the Commission shall review the situation regarding the use of recycled packaging materials in packaging other than plastics and, on this basis, assess the appropriateness of establishing measures, or setting targets, for increasing the use of recycled content in such other packaging, and where necessary present a legislative proposal.

## Article 7a

### *Bio-based feedstock in plastic packaging*

1. *By ... [3 years from the date of entry into force of this Regulation], the Commission shall review the state of technological development and environmental performance of bio-based plastic packaging taking into consideration the sustainability criteria laid down in Article 29 of Directive (EU) 2018/2001;*
2. *Where appropriate, and based on that review, the Commission shall present a legislative proposal in order to:*
  - a) *lay down sustainability requirements for bio-based feedstock in plastic packaging;*
  - b) *lay down targets to increase the use of bio-based feedstock in plastic packaging;*
  - c) *introduce the possibility to achieve the targets set out in Article 7(1) and (2) of this Regulation by using bio-based plastic feedstock instead of recycled content recovered from post-consumer plastic waste in case suitable recycling technologies for food contact packaging complying with the requirements laid down in Regulation (EU) 2022/1616 are not available.*
  - d) *modify, where appropriate, the definition of biobased plastic set out in Article 3(41b).*

## Article 8

### **Compostable packaging**

1. *By way of derogation from Article 6(1), by [36 months from the date of entry into force of this Regulation], packaging **placed on the market** referred to in Article 3(1f) and sticky labels attached to fruit and vegetables **shall be compatible with the standard for composting** in industrially controlled conditions in bio-waste treatment facilities **and shall be compatible, when required by the Member States, with home composting standards referred to in paragraph 5a.***
2. *By way of derogation from Article 6(1), where Member States allow waste with similar biodegradability and compostability properties to be collected together with bio-waste*

*pursuant to article 22 (1) of Directive (UE) 2008/98 and* appropriate waste collection schemes and waste treatment infrastructure are available to ensure that **compostable packaging** enters the organic waste management stream, Member States *may* require that **the following packaging** shall be made available on their market for the first time only if *they are compostable*:

- i)* **packaging referred to in Article 3 (1), point (1)(g) composed of material other than metal, very lightweight plastic carrier bags and lightweight plastic carrier bags,**
- ii)* **packaging other than those mentioned in paragraph i) for which the Member State already required that they be compostable before the date of application of this Regulation. .**

3. By ... [*36 months from the date of entry into force of this Regulation*], packaging other than that referred to in paragraphs 1 and 2, including packaging made of biodegradable plastic polymers **and other biodegradable materials**, shall allow material recycling, **in accordance with Article 6, and** without affecting the recyclability of other waste streams.
4. Compliance with the requirements set out in paragraphs 1 to 3 shall be demonstrated in the technical information concerning the packaging referred to in Annex VII.
5. The Commission *may analyse whether other packaging should be included in* Article **8(1) or Article 8 (2) (i) when** justified and appropriate due to technological and regulatory developments **affecting the elimination** of compostable packaging and **in** the conditions **established** in Annex III, **and, where appropriate, present a legislative proposal.**



5a. *By 12 months from the date of entry into force of this Regulation, the Commission shall request the European standardisation organisations to prepare or update harmonised standards laying down the detailed technical specifications of the requirements on compostable packaging. When doing so, the Commission shall request that, in line with the latest scientific and technological developments, parameters such as retention times, temperatures and stirring, which reflect the actual conditions in home composts and in bio-waste treatment facilities, including anaerobic digestion processes, are taken into account. The Commission shall request that those standards include verification that the compostable packaging undergoing the biological decomposition subject to the specified parameters, results ultimately in conversion into carbon dioxide or, in absence of oxygen, methane, mineral salts, biomass and water.*

*By 12 months from the date of entry into force of this Regulation, the Commission shall also request the European standardisation organisations to prepare harmonised standard laying down the detailed technical specifications of the requirements on home compostability of packaging referred to in Article 8(1).*

#### *Article 9*

#### **Packaging minimisation**

1. *By 1 January 2030, the manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the **shape and** material that the packaging is made of.*

2. ***The manufacturer or importer shall ensure that packaging which does not comply with the performance criteria set out in Annex IV; and packaging with characteristics that are only aimed to increase the perceived volume of the product, including double walls, false bottoms, and unnecessary layers, is not placed on the market, unless the packaging design is protected by a Community design under Council Regulation (EC) 6/2002, design rights falling under the scope of applications of Directive 98/71/EC, including international agreements having effect in one of the Member States, or its shape is a trademark falling under the scope of Regulation (EU) 2017/1001, or Directive (EU) 2015/2436, including trademarks registered under international agreements having effect in one of the Member States, or the packaged product or beverage belongs to geographical indications protected under Union legislation including Regulation (EU) No 1308/2013 for wine and Regulation (EU) 2019/787 for spirit drinks or covered by a quality schemes as referred to in Regulation (EU) No 1151/2012.***

***The exemption in the subparagraph above applies only to design rights and trademarks protected by [date of entry into force of this Regulation], and only in case the application of the requirements under this Article affects (i) the packaging design in a way that it alters its novelty or its individual character, or (ii) the trademark in a way that the trademark is not capable anymore to distinguish the marked good from those of other undertakings.***

- 2a. ***By ... [OP: Please insert the date = 24 months from the date of entry into force of this Regulation], the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. For most common packaging types and formats such standards should specify maximum adequate weight and volume limits, and, if appropriate, wall thickness and maximum empty space.***

3. **█**

4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements:

- (a) an explanation of the technical specifications, standards and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV;
- (b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria;
- (c) any test results, studies or other relevant sources, ***such as modelling and simulations***, used to assess the minimum necessary volume or weight of the packaging.

For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, ***and in the first place the requirements set out therein***.

#### *Article 10*

#### **Reusable packaging**

1. Packaging ***placed on the market from [the date of entry into force of this Regulation]*** shall be ***deemed to be*** reusable where ***it*** fulfils the following conditions:
  - (a) it has been conceived, designed and placed on the market with the objective to be re-used ***multiple times***;
  - (b) it has been conceived and designed to accomplish as many **■** rotations as possible in normally predictable conditions of use;
  - (ba) it fulfils the requirements regarding consumer health, safety and hygiene.***
  - (c) it can be emptied or unloaded without ***causing*** damage to the packaging which prevents its ***further function and re-use***;
  - (d) it is capable of being emptied, unloaded, refilled or reloaded while ensuring compliance with the applicable safety and hygiene requirements, ***including those on food safety***;
  - (e) it is capable of being reconditioned in accordance with Part B of Annex VI, whilst maintaining its ability to perform its intended function;

- (f) it can be emptied, unloaded, refilled or reloaded while maintaining the quality and safety of the packaged product and allowing for the attachment of labelling, and the provision of information on the properties of that product and on the packaging itself, including any relevant instructions and information for ensuring safety, adequate use, traceability and shelf-life of the product;
- (g) it can be emptied, unloaded, refilled or reloaded without risk to the health and safety of those responsible for doing so; *and*
- (h) it fulfils the requirements specific to recyclable packaging ■ set out in Article 6 *when it becomes waste*;

**1a.** *By ... [OP: please insert the date 24 months after the entry into force of this Regulation], the Commission shall adopt delegated act setting a minimum number for the rotations referred to in paragraph 1, point (b), for reusable packaging for the packaging formats, which are most frequently used in reuse, taking into account hygiene and other requirements, such as logistics.*

2. Compliance with the requirements set out in paragraph 1 shall be demonstrated in the technical information concerning the packaging referred to in Annex VII.

## Chapter III

### Labelling, marking and information requirements

#### Article 11

##### Labelling of packaging

1. From ... [*42 months from the date of the entry into force of this Regulation*] or 24 months *from the date of entry into force of the implementing act referred to in paragraph 5 and 6, whichever is the latest*, packaging *placed on the market* shall be marked with a label containing information on its material composition *in order to facilitate consumer sorting. The label shall be based on pictograms and be easily understandable, including for persons with disabilities. For the packaging referred to in Article 8 (1) and, where applicable, 8(2), the label shall indicate that the material is compostable, it is not suitable for home-composting, and compostable packaging shall not be thrown away in nature. With the exception of e-commerce packaging*, this obligation does not apply to transport packaging *or packaging part of a deposit and return system.*

*In addition to the harmonised label referred to in paragraph 1, economic operators may place a QR code or other type of digital data carrier on the packaging that contains information on the destination of each separate component of the packaging in order to facilitate consumer sorting.*

Packaging subject to deposit and return systems referred to in Article 44(1) shall *be marked with a clear and unambiguous label. In addition to the national label, packaging may be marked with a harmonised colour label established in the relevant implementing act adopted pursuant to paragraph 5. Member States may require that such harmonised label shall be marked on packaging subject to deposit and return systems under the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States.*

2. **Reusable packaging placed on the market from 48 months from the date of entry into force of this Regulation or 30 months from the date of entry into force of the implementing act referred to in paragraph 5, whichever is the latest, shall bear a label informing users that the packaging is reusable. Further information on reusability shall be made available through a QR code or other type of standardised, open, digital data carrier, including the availability of a local, national or EU-wide system for re-use and information on collection points, and that facilitates the tracking of the packaging and the calculation of trips and rotations, or an average estimation if that calculation is not feasible.** In addition, reusable sales packaging shall be clearly identified and distinguished from single use packaging at the point of sale.
- 2a. **By way of derogation from paragraph 2, the requirement to bear a label and a QR code or other type of digital data carrier shall not apply to open loop systems which do not have a system operator in accordance with Annex VI.**
3. Where **■** packaging covered by Article 7 is **placed on the market from [42 months from the date of entry into force of this Regulation] or 24 months from the date of entry into force of the implementing act referred to in paragraph 5, whichever is the latest and is marked with a label containing information on the share of recycled content, that label and, where applicable, the QR code or other type of digital data carrier shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7).** Where **■** packaging is marked with a label containing information on the share of **bio-based** plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).

4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly legibly and ***firmly*** on the packaging, ***so that it cannot be easily erased. The information shall also be available to end-users before the purchase of the product in online sales.*** Where this is not possible or not warranted on account of the nature and size of the packaging, they shall be affixed to the grouped packaging. ***Where this is not possible or not warranted on account of the nature and size of the packaging or where it is relevant to provide for non-discriminatory access to information for vulnerable groups, particularly visually impaired persons, labels referred to in paragraphs 1 to 3 shall be provided via a single electronically readable code or other type of data carrier.***

***The information contained in the labels referred to in paragraphs 1 to 3 and QR code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made available on the market.***

***Where information is provided by electronic means in accordance with paragraphs 2 to 3, the following requirements shall apply:***

- (a) adequate, relevant personal data is collected only for the limited purpose of giving the user access to relevant compliance information referred to in paragraphs 2 to 3 of this Article in respect of Article 5(1) of Regulation 2016/679/EU***
- (b) the information is not displayed with other information intended for sales or marketing purposes.***

Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for ***the packaged product and for the packaging, and both of them shall be easily distinguishable.***

5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats, ***including when provided through digital means***, for the labelling of packaging, referred to in paragraphs 1 to 3. ***The Commission shall take into account the specificities of composite packaging when developing the implementing act. When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(2), the Commission shall take into consideration any variation which exists in the deposit charged by Member States.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

6. By [OP: Please insert the date = ***18*** months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of ***standardised, open***, digital marking technologies, ***including for composite packaging and integrated or separate components of packaging***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

***By 1 January 2030, the identification of substances of concern by means of standardised, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit. The packaging placed on the market containing substances of concern shall be marked using the technologies referred to in the first subparagraph .***

7. Without prejudice to requirements concerning other harmonised EU labels, economic operators shall not provide or display labels, marks, symbols or inscriptions that are likely to mislead or confuse consumers or other end users with respect to the sustainability requirements for packaging, other packaging characteristics or packaging waste management options, for which harmonised labelling has been laid down in this Regulation. ***The Commission shall adopt, where appropriate, guidelines in order to clarify aspects that are likely to mislead or confuse consumers or other end users.***



8. *By [two years after entry into force of this Regulation], packaging included in an extended producer responsibility scheme may be identified throughout the territory of the Member States in which that scheme or system applies only by means of a corresponding symbol in a QR code or other standardised digital marking technology in order to signify that the producer fulfils its extended producer responsibility obligations.* That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.
- 8a. *Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users about the packaging recyclability and reusability in the Member States where it shall be returned. Member States shall not prohibit the affixing of labels related to deposit and return system in place in other Member State.*
- 8b. *This Article shall not apply to the immediate and outer packaging as defined in Directive 2001/83/EC and in Regulation (EU) 2019/6, in Regulation (EU) 2017/745 and in Regulation (EU) 2017/746, if there is no space on the packaging due to other labelling requirements as defined in the legislation mentioned above, or if the labelling of the packaging could jeopardise the safe use of medicinal products for human use and veterinary medicinal products.*
- 8c. *Packaging as referred to in paragraphs 1, 2 and 3, that is manufactured or imported before the deadlines referred in those paragraphs, may be marketed until 36 months after the date of entry into force of the labelling requirements laid down in paragraphs 1, 2 and 3.*

Article 12

**Labelling of waste receptacles for the collection of packaging waste**

*By 42 months from the date of entry into force of this Regulation, or 30 months after the adoption of the implementing acts referred to in paragraph 1b, whichever is the latest, Member States shall ensure that harmonised labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles **are** affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. **A receptacle for packaging waste may bear more than one label. This obligation does not apply to receptacles covered by a deposit and return system.***

*1b. By ... [18 months from the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish harmonised labels and specifications for the labelling requirements and formats for the labelling of the receptacles referred to in paragraph 1a. When developing the implementing act, the Commission shall take into account the specificities of the collection systems established in the Member States as well as the specificities of composite packaging. The labelling for receptacles shall correspond to the labelling for packaging as referred to in Article 11(5) with the exception of labelling for packaging covered by deposit and return systems. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).*

## Article 12b

### *Claims*

1. *Environmental claims as defined in Article 2, point (o), of Directive 2005/29/EC concerning packaging properties for which legal requirements are set out in this Regulation may be made in relation to packaging placed on the market if they fulfil the following requirements:*

- (a) they are made only in relation to packaging properties exceeding the applicable minimum requirements set out in this Regulation, in accordance with the criteria, methodologies and calculation rules set out therein and;*
- (b) they specify whether they relate to the packaging unit, part of the packaging unit or to all packaging placed on the market by the producer.*

*Compliance with the requirements set out in this paragraph shall be demonstrated in the technical documentation concerning the packaging as set out in Annex VII.*

## Chapter IV

### **Obligations of economic operators other than the obligations in Chapters V and VII**

#### *Article 13*

#### **Obligations of manufacturers**

1. *Manufacturers shall only place on the market packaging which is in conformity with the requirements set out in Articles 5 to 11.*

(a) █

(b) █

2. Before placing packaging on the market, manufacturers shall carry out the relevant conformity assessment procedure referred to in Article 33, or have it carried out on their behalf, and draw up the technical documentation referred to in Annex VII.

Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.

3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for **5 years after single-use packaging has been placed on the market, and** 10 years after **reusable** packaging has been placed on the market.
4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this Regulation. **Manufacturers shall adequately take into account** changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified **■**. In case the manufacturers finds that the packaging's conformity may be affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.
5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.
6. Manufacturers shall indicate on the packaging or on a QR code or another data carrier their name, registered trade name or registered **trademark** as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code **or other type of digital data carrier** referred to in Article 11(2) or the data carrier referred to in Article 11(4) or in a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.

7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union *law* on the labelling of the packaged product.
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market *from the date of entry into force of this Regulation* is not in conformity with one or more of the applicable requirements set out in Articles 5 to 11 shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate. Manufacturers shall immediately inform the market surveillance authority of the Member State in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.
- 8a. *By way of derogation from paragraph 8, the obligation to bring into conformity, withdraw or recall packaging which is believed not to be in conformity with applicable requirements shall not apply to reusable packaging placed on the market before the entry into force of this Regulation.***
9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in *electronic form and, on request, in paper* form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.
- 9a. *Paragraphs 2 and 3 shall not apply to custom-made transport packaging for configurable medical devices and medical systems that are to be used in industrial and healthcare environments.***

- 9b. *In case of transport packaging, reusable packaging, primary production packaging or service packaging, if the natural or legal person which has the packaging designed or manufactured under its own name or trademark falls under the definition of micro-enterprise in accordance with Commission Recommendation 2003/361/EC as publicly available on [OP: Please insert the date = the date of entry into force of this Regulation], and the provider of the packaging is located in the European Union, then the provider of the packaging shall be considered the manufacturer for the purpose of this Article.*

#### *Article 14*

##### **Information obligations of suppliers of packaging or packaging materials**

1. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.
2. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.

#### *Article 15*

##### **Obligations of authorised representative**

1. A manufacturer may, by a written mandate, appoint an authorised representative.  
  
The obligations laid down in Article 13(1) and the obligation to draw up technical documentation *as* referred to in Annex VII and *as* required under Articles 5 to 10 shall not form part of the authorised representative's mandate.
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:

- (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ***5 years after single-use packaging has been placed on the market, and*** 10 years after ***reusable*** packaging has been placed on the market;
- (b) cooperate with the national authorities, at their request, on any measures taken with regard to non-compliances of the packaging covered by the authorised representative's mandate;
- (c) further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging in a language or languages, which can be easily understood by that authority;
- (d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request;
- (e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.

#### *Article 16*

### **Obligations of importers**

1. Importers shall only place on the market packaging which is ***in conformity*** with the requirements of Articles 5 to 11.
2. Before placing packaging on the market, importers shall ensure the following:
  - (a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer;
  - (b) the packaging is labelled in accordance with Article 11,
  - (c) the packaging is accompanied by the required documents;
  - (d) the manufacturer has complied with the requirements set out in Article 13(5) and (6).

Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.

3. Importers shall indicate on the packaging their name and their registered trade name or registered trade mark as well as the postal address, and, where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided via the data carrier or in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.
4. Importers shall ensure that information provided in accordance with paragraph 3 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.
5. Importers shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.
6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.
7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.
8. Importers shall, for **5 years after single-use packaging has been placed on the market, and** 10 years after **reusable** packaging has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.



9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided ***in electronic form and, on request, in paper*** form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority.
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.

### *Article 17*

#### **Obligations of distributors**

1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.
2. Before making packaging available on the market, distributors shall verify the following:
  - (a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the register of producers referred to in Article 39;
  - (b) the packaging is labelled in accordance with Article 11;
  - (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.
3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer ***or importer*** is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or until the manufacturer complies.

Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.

- 3a. ***Information disclosed by the producer shall not be used by the distributor for any purpose other than to verify compliance with applicable requirements. The misuse of such information by distributors for commercial purposes shall be prohibited.***
4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken.

Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.

5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in ***electronic form and, on request, in paper*** form.

Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.

#### *Article 18*

### **Obligations of fulfilment service providers**

1. ***Producers offering packaging to consumers located in the Union shall provide fulfilment service providers with the information referred to in Article 40(3), points (a) and (b) at the moment of the conclusion of the contract between the provider and the producer for any of the services mentioned in point (11) of Article 3 of Regulation (EU) 2019/1020.***

**1a.** *Upon receiving the information referred to in paragraph 1 and at the moment of the conclusion of the contract between the provider and the producer for any of the services mentioned in point (11) of Article 3 of Regulation (EU) 2019/1020, the fulfilment service provider shall, through the use of any freely accessible official online database or online interface made available by a Member State or the Union or the publicly available registration list under Article 39(10) or through requests to the producer to provide supporting documents from reliable sources, make best efforts to assess whether the information referred to in paragraph 1 is reliable and complete. For the purpose of this Regulation, producers shall be liable for the accuracy of the information provided.*

*Where the fulfilment service provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 1 obtained from the producer concerned is inaccurate, incomplete or not up-to-date, that provider shall request that the producer remedies that situation without delay or within the period set by Union and national law.*

*Where the producer fails to correct or complete that information, the fulfilment service provider shall swiftly suspend the provision of its service to that producer in relation to the offering of packaging or packaged products to consumers located in the Union until the request has been fully complied with. The fulfilment service provider shall provide the producer with the reasons for the suspension.*

**1b.** *Without prejudice to Article 4 of Regulation (EU) 2019/1150, if a fulfilment service provider suspends the provision of its service pursuant to paragraph 1a of this Article, producer concerned shall have the right to challenge the decision of the fulfilment service provider before a court of the Member States where the fulfilment service provider is established.*

**2.** Fulfilment service providers shall ensure that for packaging that they handle, the conditions during warehousing, handling and packing, addressing or dispatching, do not jeopardise the packaging's compliance with the requirements set out in Articles 5 to 11.

## Article 19

### Case in which obligations of manufacturers apply to importers and distributors

An importer or a distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of the manufacturer under Article 13, where they place packaging on the market under their own name or trademark or modify packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation. ***In case of transport packaging, reusable packaging, primary production packaging or service packaging if the natural or legal person which has the packaging designed or manufactured under its own name or trademark falls under the definition of micro-enterprise in accordance with Commission Recommendation 2003/361/EC as publicly available on [OP: Please insert the date = the date of entry into force of this Regulation], and the provider of the packaging is located in the European Union, then the provider of the packaging shall be considered the manufacturer for the purpose of this Article.***

## Article 20

### Identification of economic operators

1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following:
  - (a) the identity of any economic operator that has supplied them with packaging;
  - (b) the identity of any economic operator to which they have supplied packaging.
2. Economic operators shall be able to provide the information referred to in paragraph 1, ***point (a), for 5 years after they have been supplied with the single-use packaging and 10 years after they have been supplied a reusable packaging.***

***Economic operators shall be able to provide the information referred to in paragraph 1, point (b), 5 years after they have supplied the single-use packaging and for 10 years after they have supplied the reusable packaging.***

## Article 20a

### *Information obligations of packaging waste management operators*

*Packaging waste management operators shall provide annually the competent authorities the information on packaging waste listed in Table 4 of Annex XII through the electronic registry or registries, in accordance with Article 35(1) of Directive (UE) 2008/98.*

*The packaging waste management operators shall provide annually the producers in the case of individual fulfilment of extended producer responsibility obligations, or the entrusted producer responsibility organisation in the case of collective fulfilment of extended producer responsibility obligations, with all the information necessary to comply with the information obligations as referred to in Article 39(7c).*

*By virtue of national law, Member States may provide that, when public authorities are responsible for the organisation of the management of packaging waste, packaging waste management operators provide annually such public authorities with all the information necessary to comply with the information obligations as referred to in Article 39(7c), or through other means to supplement the electronic registry or registries, in accordance with Article 35(1) of Directive 2008/98/EC.*

## Chapter IVa

### *Obligations of economic operators other than the obligations in Chapter VII*

#### *Article 21*

##### **Obligation related to excessive packaging**

1. *By 1 January 2030, or 36 months after the entry into force of the delegated acts adopted pursuant to the second sub-paragraph, whichever is the latest, economic operators who fills the packaging in grouped packaging, transport packaging or e-commerce packaging, shall ensure that the empty space ratio is maximum 50 %.*

*By 3 years after the entry into force of this Regulation, the Commission is empowered to adopt implementing acts in accordance with Article 58 to establish the methodology for the calculation of the empty space ratio set out in paragraph 1. The methodology shall take into account the special characteristics of packaging which needs to be placed in an empty space large enough to comply with applicable legal requirements or to protect the product, in particular concerning packaged products of irregular shapes, packaging containing more than one sales packaging or product, packaging containing liquid products, packaged products the content of which can easily be damaged, packaged products that can be damaged by larger products due to their small dimensions, and the minimum space on the transport packaging to enable attachment of the shipment labels.*

2. For the purpose of this calculation:

- (a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein;
- (b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-commerce packaging.

Space filled by filling materials, such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene or Styrofoam chips, shall be considered as empty space.

**2a. *By ... [36 months from the date of entry into force of this Regulation], the economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total packaging internal volume and the volume of the packaged product.***

*For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.*

*Sales packaging for products that are subject to settlement during transportation or where headspace is required to protect the food product, or others that presents these characteristics, compliance with this paragraph , shall be assessed as the pack-fill level at the point of filling. Air between or within packed foodstuff or protective gases shall not be considered as empty space.*

3. Economic operators using sales packaging as e-commerce packaging *or using reusable packaging within a system of reuse* shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements *set out* in Article 9.
- 3a. *By ... [7 years from the date of entry into force of this Regulation], the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3, and assess the possibility of establishing empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.*

## Article 22

### Restrictions on use of certain packaging formats

1. *From 1 January 2030*, economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.
- 1a. *Member States may maintain restrictions adopted before [the date of application of this regulation] on the placing on the market of packaging in the formats and for the purposes listed in Annex V but made from materials not listed in Annex V.*
- 1b. *The provision laid down in paragraph 1 shall be without prejudice to Article 8(2) point ii).*
2. █
3. Member States may exempt *micro-enterprises as defined in Commission Recommendation 2003/361/EC*, from point 3 of Annex V , *as publicly available on [the date of entry into force of this Regulation], █* where it *has been demonstrated that it* is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.

4. *By [OP: Please insert the date = 7 years after the date of entry into force of this Regulation], the Commission shall assess the positive environmental impact of the restrictions and their derogations, and shall take into account the availability of alternative packaging solutions that meet safety and hygiene requirements applicable to contact sensitive packaging. Based on this assessment, the Commission shall review this provision and Annex V to adapt it to technical and scientific progress with the objective to reducing packaging waste and, on this basis, assess the appropriateness of establishing new restrictions on the use of specific packaging formats, the relevance of maintaining the exemptions and derogations set out in this Article, and where necessary present a legislative proposal.*
- 4a. *By ...[24 months from the date of entry into force of this Regulation], the Commission shall publish guidelines, in consultation with Member States and the European Food Safety Authority, explaining in more detail Annex V, including examples of the packaging formats in scope, any exemptions to the restrictions, and providing an exemplificative list of fruits and vegetables excluded from point 2 of Annex V.*

#### *Article 23*

#### **Obligations in relation to reusable packaging**

1. *The economic operators who make a reusable packaging available within the territory of a Member State for the first time shall ensure that a system for re-use of such packaging is in place, including an incentive to ensure collection, in that Member State, which meets the requirements laid down in Article 24 and Annex VI. This paragraph shall be considered fulfilled by existing systems for reuse already in place in the Member States.*
2. The description of the system's compliance with those requirements shall be drawn up as part of the technical documentation on reusable packaging to be provided pursuant to Article 10(2). For that purpose, the manufacturer shall request the relevant written confirmations from system participants set out in Annex VI.



## Article 24

### Obligation related to systems for re-use

1. Economic operators making use of reusable packaging shall participate in one or more systems for re-use and shall ensure that the systems for re-use, which the reusable packaging is part of, comply with the requirements laid down in Part A of Annex VI.
2. Economic operators making use of reusable packaging shall **ensure that** such packaging **is reconditioned** in compliance with Part B of Annex VI, prior to offering it again for use by end users.
  - 2a. ***Economic operators making use of reusable packaging may designate third parties responsible of one or more mutualised systems for re-use. The appointed third parties shall ensure that the systems for reuse, which the reusable packaging is part of, comply with the requirements laid down in Part A of Annex VI.***

***Where economic operators have appointed a third party as referred in paragraph 2a, the obligations set out in this Article shall be met by the third parties on their behalf.***

- 2a. ***Economic operators making use of reusable packaging in close loop systems as defined in Annex VI shall be required to return the packaging to the collection point(s) identified by the system participants and approved by the system operator.***

## Article 25

### Obligations related to refill

1. Where economic operators offer the possibility to purchase products through refill, they shall inform end users of the following:
  - (a) the types of containers that may be used to purchase the products on offer through refill;
  - (b) the hygiene standards for refill,
  - (c) the responsibility of the end user in relation to the health and safety regarding the use of the containers referred to in point (a).

This information shall be regularly updated and either clearly displayed on the premises or otherwise provided to end users.

2. Economic operators enabling refill shall ensure that refill stations comply with the requirements laid down in Part C of Annex VI and with any requirements set in other Union legislation for the sale of products through refill.
3. Economic operators enabling refill shall ensure that *if packaging and containers are offered to the end users at the refill stations, they are not provided free of charge if the packaging does not meet requirements under Annex VI*, or is provided as a part of a deposit and return system.
4. Economic operators may refuse to refill a container provided by the end user, if the end user does not abide with the requirements communicated by the economic operator in accordance with paragraph 1, *in particular if they deem it unhygienic or unsuitable for the food or drink being sold. Economic operators shall bear no liability for hygiene or food safety issues that may arise from the use of containers provided by the end user.*
- 4a. *From 1 January 2030, final distributors with a sales area of more than 400m<sup>2</sup> shall endeavour to dedicate 10% of that sales area to refill stations for both food and non-food products.*

#### Article 26

#### Re-use targets

1. From 1 January 2030, *the economic operators using transport packaging or sales packaging used for transporting products within the territory of the Union, including via e-commerce, in the form of pallets, foldable-plastic boxes, boxes, trays, plastic crates, intermediate bulk containers, pails, drums and canisters of all sizes and materials, including flexible formats or pallet wrappings or straps for stabilisation and protection of products put on pallets during transport*, shall ensure that *at least 40% of such packaging used is reusable packaging within a system for re-use.*

*From 1 January 2040, the economic operators shall endeavour to use at least 70% of such packaging in a reusable format within a system for re-use.*

2. *By way of derogation from paragraph 1, the economic operators using transport packaging or sales packaging used for transporting products within the territory of the European Union between different sites on which the operator performs its activity; or between any of the sites on which the operator performs its activity and the sites of any other linked enterprise or partner enterprise, as defined in Article 3 of the Annex to Commission Recommendation 2003/361, in the version publicly available on [OP: Please insert the date = the date of entry into force of this Regulation], shall ensure that such packaging is reusable within a system for re-use.*



3. *By way of derogation from paragraph 1, the economic operators using transport packaging or sales packaging used for transportation to delivering products to another economic operator within the same Member State shall ensure that such packaging is reusable within a system for re-use.*



4. *The obligations set out in paragraphs 1, 2 and 3 do not apply to transport packaging or sales packaging:*

(a) *used for the transportation of dangerous goods as set by Directive 2008/68/EC;*

(b) *used for transportation for the large-scale machinery, for equipment and commodities for which packaging are customised-designed to fit the individual requirement of the ordering economic operator;*

(c) *in flexible format, used for transportation, that is in direct contact with food and feed as defined in Regulation (EC) No 178/2002, and food ingredients as defined in Regulation (EU) No 1169/2011;*

(d) *in the form of cardboard boxes.*

5. *From 1 January 2030, economic operators, using grouped packaging in the form of boxes, excluding cardboard, used outside of sales packaging to group a certain number of products to create a stock-keeping or distribution unit shall ensure that at least 10% of such packaging used is reusable packaging within a system for re-use.*

*From 1 January 2040, the economic operators shall endeavour to use at least 25 % of such packaging is reusable format within a system for re-use.*

■

8. *From 1 January 2030, the final distributor making available on the market within the territory of a Member State alcoholic and non-alcoholic beverages in sales packaging shall ensure that at least 10 % of those products are made available in reusable packaging within a system for re-use.*

*From 1 January 2040, the economic operators shall endeavour that at least 40 % of those products are made available in reusable packaging within a system for re-use. The final distributor shall contribute in a fair proportion to the achievement of the targets by packaged products manufactured under its brand.*

■

9. *The targets laid down in paragraph 8 shall not apply to:*
- (a) *beverages which are to be considered highly perishable under Article 24 of Regulation (EU) No 1169/2011 and milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013 and their dairy analogies falling within CN codes 2202 9911 and 2202 9915;*
  - (b) *categories of grape wine products listed in Part II of Annex VII to Regulation (EU) No 1308/2013 point 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 15, 16 and 17;*
  - (c) *aromatised wine products as defined in Regulation (EU) No 251/2014;*
  - (d) *similar products to wine products and aromatised wine products obtained from fruit other than grapes and vegetables, other fermented beverages falling within CN code 2206 00;*

*(e) alcohol-based spirituous beverages corresponding to heading 2208 of the Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.*

10. *By [24 months from the date of entry into force of this Regulation], the Commission shall publish guidelines, in consultation with Member States, explaining in more detail the products falling in the scope of paragraphs 8 and 9.*

■

11. *Final distributors, under paragraph 8, shall take back, free of charge, all reusable packaging of the same type, form and size as the packaging made available on the market by them, within that specific system of reuse at the point of sale, ensuring their recovery and return through the entire distribution chain. The end users shall be able to return the packaging at the location where the actual handover of such packaging takes place or in its immediate proximity. The final distributor shall fully redeem associated deposits or take measures to notify the return of the packaging according to the governance rules of the specific system of reuse, which may mean redemption of associated deposits.*

12. *Final distributors shall be exempted from the obligation to meet the targets in paragraph 8 if, during a calendar year, they have a sales area of not more than 100 m<sup>2</sup>. On the basis of the special conditions of final distribution and some manufacturing sectors, even at national level, the Commission is empowered to adopt delegated acts in accordance with Article 58, to modify the sales area threshold.*

■

13. *Member States may exempt final distributors from the obligation to meet the targets in paragraph 8 if their sales area is located on an island with a population of less than 2000 inhabitants or in a municipality with a population density less than 54 persons/km<sup>2</sup>. However, the requirements set in the paragraph 8 shall apply to all population centers/localities with more than 5,000 inhabitants. Moreover, if that final distributor sells products referred in paragraph 8 in re-usable packaging, it must arrange a take back for such packaging according to paragraph 11. In that case, if the final distributor has more than one sales area, and only one or some of those areas are located on such an island, the relevant beverages and products made available on the market within a territory of a Member State in those sales area shall not be calculated for the purpose of meeting the targets under paragraph 8.*

14. *Members states may allow that final distributors form pools for the purpose of meeting their obligations under paragraph 8. These pools shall not exceed more than 40% of the market share of the relevant beverage category and shall consist of up to 5 final distributors.*

*These pools may only cover beverage categories made available on the market within the territory of a Member State by all pool members.*

*The limitation to 5 final distributors does not apply if they operate under the same brand name.*

*If Member States grant the possibility under this paragraph, the information provided for by the pool to the authority of the Member State must consist, at a minimum, of:*

*(a) the economic operators included in the pool, and*

*(b) the economic operator nominated as pool manager who will be the contact point.*

*Member states may, as appropriate, set further information requirements that are necessary for the enforcement of the obligations according to paragraph 8 in conjunction with this paragraph.*

Economic Operators shall *ensure that their agreements comply with Articles 101 and 102 TFEU. Without prejudice to the general applicability of Union competition rules to such pools, all members of a pool shall in particular ensure that neither data sharing nor information exchange may occur in the context of their pooling arrangement, except in respect of the information mentioned in Article 27 paragraph 2, also in relation to prospective sales data.*

*By 1 January 2028, the Commission shall adopt delegated acts supplementing this Regulation to establish and specify the detailed conditions and reporting requirements to be applied to these pooling arrangements, taking into account the type and quantity of packaging each operator places on the market each calendar year and the place where the economic operators are located.*

15. Economic operators shall be exempted from the obligation to meet the targets in *this Article* if, during a calendar year, they:

- (a) made not more than 1000 kg of packaging available on the market within the territory of a Member State; and*
- (b) complied with the definition of micro-enterprise in accordance with rules set out in the Commission Recommendation 2003/361, in the version publicly available on [OP: Please insert the date = the date of entry into force of this Regulation].*

*On the basis of the special conditions of final distribution and some manufacturing sectors, even at national level, the Commission is empowered to adopt delegated acts in accordance with Article 58, to modify the thresholds under point a.*

15b. *Member States may exempt economic operators for a period of 5 years from the obligations under this Article under the following conditions:*

- (a) the exempting Member State reaches 5 percentage points above the targets for recycling of packaging waste per material to be achieved by 2025 and is expected to reach 5 percentage points above the 2030 target according to the report published by the Commission three years before that date;*

- (b) the exempting Member State is on track to fulfil the respective waste prevention targets as set out in Article 38 of this Regulation and can demonstrate to have reached at least 3% waste prevention by 2028 compared to the 2018 baseline;*
- (c) the economic operators have adopted a corporate waste prevention and recycling plan that contributes to achieving the waste prevention and recycling objectives in respectively Article 38 and Article 46.*

*This period of 5 years may be renewed by the Member State where the conditions are fulfilled.*

16.



17. *Under the conditions set out in Article 45, Member States may set targets for economic operators going beyond the minimum targets set out in paragraphs 1, 2, 3, 5 and 8 of this Article to the extent that higher targets are necessary for the Member State to achieve one or more of the targets in Article 38.*

17b. *Under the conditions set out in Article 45, Member States may set targets for economic operators covering beverages made available in sales packaging which do not fall under paragraph 8 of this Article to the extent that those additional targets are necessary for the Member State to achieve one or more of the targets in Article 38.*

17c. *Targets laid down in this Article shall be calculated for the period of a calendar year.*

17d. *In order to take account of the latest scientific and economic data and developments, the Commission is empowered to adopt delegated acts in accordance with Article 58 to supplement this Regulation in order to establish:*

- (b) exemptions for economic operators additional to those listed in this Article, due to particular economic constraints encountered in a specific sector related to the compliance with targets set out in this Article,*
- (c) exemptions for specific packaging formats covered by the targets laid down in paragraphs 1, 2, 3, 5 and 8 of this Article in case of hygiene and food safety preventing the achievement of those targets,*



*(ca) exemptions for specific packaging formats covered by the targets laid down in paragraphs 1, 2, 3, 5 and 8 of this Article in case of environmental issues preventing the achievement of those targets.*

*17e. By 1 January 2034, taking into account the evolution of the state of the art of the technology and the practical experience gained by economic operators and Member States, the Commission shall present a report reviewing the implementation of the 2030 targets set out in this Article, and evaluating to what extent these targets lead to solutions fostering sustainable packaging that are effective and easy to implement, the feasibility of the achievement of targets set for 2040 on the basis of the experience in achieving the 2030 targets and the evolving circumstances, the relevance of maintaining the exemptions and derogations set out in this Article, life-cycle assessment of single-use and reuse packaging, and the necessity or pertinence of setting new targets for the re-use and refill of other packaging categories. The Commission's assessment shall include an employment impact assessment. This report shall, where appropriate be accompanied by a legislative proposal amending this Article, in particular the 2040 targets. By December 2032, Member States shall provide data to the European Commission on the employment impact assessment related to the implementation of the reuse targets in their national territories. Before submitting the employment impact assessments to the Commission, Member States shall inform and consult national social partners representing workers and employers in the sectors covered by packaging reuse targets.*

#### *Article 27*

#### **Rules on the calculation of the attainment of the re-use targets**

1. For the purpose of demonstrating the attainment of the targets laid down in Article 26(1), the economic operator making large household appliances listed in point *I* of Annex II to Directive 2012/19/EU available on the market for the first time within the territory of a Member State shall calculate the following:
  - (a) the number of units of sales of those appliances in reusable packaging within a system for re-use made available on the market for the first time within the territory of a Member State in a calendar year;

(b) the number of units of sales of those appliances in packaging other than reusable packaging as referred to in point (a) made available on the market for the first time within the territory of a Member State in a calendar year.

2. For the purpose of demonstrating the attainment of the targets laid down in Article **26(8) and in Article 28b**, the final distributor, or manufacturer, as appropriate, making available on the market such products within the territory of a Member State shall calculate, for each target separately, the following:

(a) the **total** number of units of sales **or total volume** of beverages ■ in reusable packaging within a system for re-use made available on the market within the territory of a Member State in a calendar year;

(b) ■

(c) the **total** number of units of sales **or total volume** of beverages ■ made available on the market within the territory of a Member State by other means than those referred to in points (a) [**and (b)**] in a calendar year.

**2a. For the purpose of demonstrating the attainment of the targets laid down in Article 26(3), the final distributor making available on the market such products within the territory of a Member State shall calculate the following:**

**(a) the total number of units of sales or total weight of food in reusable packaging within a system for re-use made available on the market within the territory of a Member State in a calendar year;**

**(c) the total number of units of sales or total weight of food made available on the market within the territory of a Member State by other means than those referred to in points (a) and (b) in a calendar year.**

3. For the purpose of demonstrating the attainment of the targets laid down in Article 26(7) to (10), the economic operator using such packaging shall calculate, for each target separately, the following:

(a) the number of equivalent units of each of the packaging formats listed in Article 26(7) to (10) constituting reusable packaging within a system for re-use they used in a calendar year;

(b) the number of equivalent units of each of the packaging formats listed in Article 26(7) to (10), other than those indicated in point (a), that they used in a calendar year.

4. By **30 June 2027**, the Commission shall adopt implementing acts establishing detailed calculation rules and methodology regarding the targets set out in Article 26.

The implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).

- 4a. The obligation to demonstrate the attainment of the targets laid down in Article 26 shall apply from 1 January 2030 or 18 months after the date of entry into force of the implementing acts referred to in subparagraph 1, whichever is later.*

#### *Article 28*

#### **Reporting to the competent authorities on re-use targets**

1. The economic operators referred to in Article 26(1) to (10) shall report to the competent authority, referred to in Article 35 of this Regulation, data concerning the attainment of the targets laid down in Article 26 for each calendar year.
2. The report referred to in paragraph 1 shall be submitted within six months after the end of the reporting year for which the data are collected.
3. The first reporting period shall concern the calendar year starting on 1 January 2030.
4. The competent authorities shall establish electronic systems through which data shall be reported to them and specify the formats to be used.
5. Competent authorities may request any additional information necessary to ensure the reliability of the data reported.
6. Member States shall make public the results of the reports referred to in paragraph 1.

- 6a. *By ... [OP: please insert the date = 24 months from the entry into force of this Regulation], the Commission shall establish a European observatory on re-use. The observatory shall be responsible for monitoring the implementation of the measures laid down in this Regulation, collecting data on re-use practices, and contributing to the development of best practices in the field of re-use.*

## Article 28a

### *Refill obligation for the takeaway sector*

1. *By ... [OP: Please insert the date = 24 months from the date of entry into force of this Regulation]:*
- (a) *the final distributor that is conducting its business activity in the HORECA sector and that is making available on the market within the territory of a Member State in take-away packaging cold or hot beverages filled into a container at the point of sale for take-away shall provide a system for consumers to bring their own container to be filled;*
  - (b) *the final distributor that is conducting its business activity in the HORECA sector and that is making available on the market within the territory of a Member State in take-away packaging for ready-prepared food, intended for immediate consumption without the need of any further preparation, and typically consumed from the receptacle, shall provide a system for consumers to bring their own container to be filled.*
2. *The final distributors referred to in points (a) and (b) shall offer the goods filled in the container brought by the consumer at no higher costs and in no less favourable conditions than the sales unit consisting of the same goods and single use packaging.*
- The final distributors shall inform the end consumers at the point of sale, through clearly visible and readable information boards or signs, about the possibility of obtaining the goods in a refillable container provided by the consumer.*

## Article 28b

### *Reuse offer for the takeaway sector*

1. *By ... [OP: Please insert the date = 36 months after the date of entry into force of this Regulation] the final distributor that is conducting its business activity in the HORECA sector and that is making available on the market within the territory of a Member State in take-away packaging cold or hot beverages or ready-prepared food intended for immediate consumption without the need of any further preparation filled into a container at the point of sale for take-away shall provide to the consumers the option of packaging within a system for re-use.*
2. *The final distributors shall inform the end consumers at the point of sale, through clearly visible and readable information boards or signs, about the possibility of obtaining the goods in reusable packaging.*
3. *The final distributors shall offer the goods filled in reusable packaging at no higher costs, and in no less favourable conditions than the sales unit consisting of the same goods and single use packaging.*
4. *The final distributors shall be exempted from the application of this Article if they fall within the definition of a micro enterprise set out in Commission Recommendation 2003/361/EC.*
5. *The economic operator shall endeavour to, from 2030, offer 10% of products in a reusable packaging format.*
6. *Under the conditions set out in Article 45, Member States may set targets for economic operators going beyond the minimum targets set out in paragraph 5 of this Article to the extent that higher targets are necessary for the Member State to achieve one or more of the targets in Article 38.*

## Chapter V

### Plastic carrier bags

#### *Article 29*

#### **Plastic carrier bags**

1. Member States shall take measures to achieve a sustained reduction in the consumption of lightweight plastic carrier bags *in* their territory.

A sustained reduction is *considered to be* achieved if the annual consumption does not exceed 40 lightweight plastic carrier bags per person, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.

2. Measures to be taken by Member States to meet the target set out in paragraph 1 *shall take into consideration* the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include marketing restrictions, provided that they are proportionate and non-discriminatory.
3. *In addition to the measures under paragraphs 1 and 2 above*, Member States may take measures, such as economic instruments, and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.
4. Member States may exclude very lightweight plastic carrier bags, which are required for hygiene purposes or provided as sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.
- 4a. *By [7 years after entry into force of this Regulation], the Commission shall prepare a report on packaging materials other than those mentioned in paragraphs 1 and 2, which are likely to have a more detrimental impact on the environment and, where appropriate, submit a legislative proposal setting out reduction targets and measures to achieve these targets.*

# Chapter VI

## Conformity of packaging

### *Article 30*

#### **Test, measurement and calculation methods**

For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, **21** and 24 of this Regulation, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.

### *Article 31*

#### **Presumption of conformity**

1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.
  - 1a. *Where tests, measurements or calculation methods as mentioned in paragraph 1 are performed by conformity assessment bodies under accreditation in accordance with Regulation 765/2008, they shall be presumed to be in conformity with the requirements under paragraph 1.*
2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements **■** covered by those standards *or parts thereof* set out in Articles 5 to 11, **21** and 24.

**Common ■ specifications**

1. Packaging which is in conformity with common ■ specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 24 to the extent that those requirements are covered by those common ■ specifications or parts thereof.
2. The Commission may, by means of implementing acts, establish common ■ specifications for the requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled:
  - (a) *no reference to harmonised standards* covering the relevant requirements *set out in Articles 5 to 11 and Article 24 has been* published in the *Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012 and no such reference is expected to be published within a reasonable period*, or the *existing* standard does not satisfy the requirements *the request* aims to cover; *and*
  - (b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled:
    - (i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed;
    - (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the *requested harmonised standards*:
      - are not adopted within the deadline set in the request;
      - do not comply with the request; *or*
      - are not fully in line with the requirements they aim to cover.



Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

- 2a. *Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.*
3. *Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal the implementing acts referred to in paragraph 2, or parts thereof which cover the same requirements set out in Articles 5 to 11 and Article 24 .*
- 3a. *When a Member State or the European Parliament considers that a common specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.*

### *Article 33*

#### **Conformity assessment procedure**

Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.

### *Article 34*

#### **EU declaration of conformity**

1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.

2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed on the market or made available on the market.
3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall, *where appropriate*, be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.
- 4b. *Competent authorities shall endeavour to control the accuracy of at least part of the declarations of conformity per year, assessed on a risk-based approach and shall take the necessary measures to address non-compliance, such as the withdrawal of non-compliant products from the market.*

## Chapter VII

### Management of packaging and of packaging waste

#### SECTION 1

#### GENERAL PROVISIONS

##### *Article 35*

#### **Competent authority**

1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations set out in this Chapter and in Article 6(9), 26(1) to (10), Article 27, Article 28 and Article 29.

2. Member States shall lay down the details of the organisation and operation of the competent authority or competent authorities, including administrative and procedural rules governing:
  - (a) the registration of producers in accordance with Article 39;
  - (b) the organisation and monitoring of reporting requirements under Article **39(7 and 7a)**;
  - (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40;
  - (ca) the authorisation on fulfilment of extended producer responsibility in accordance with Article 42;**
  - (d) the making available of information in accordance with Article 50.
3. By [OP: Please insert the date = 5 months after the date of entry into force of this Regulation], Member States shall notify the Commission of the names and addresses of the competent authorities designated pursuant to paragraph 1. Member States shall inform the Commission without undue delay of any changes to the names or addresses of those competent authorities.

#### *Article 36*

#### **Early warning report**

1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.
2. The reports referred to in paragraph 1 shall include the following:
  - (a) an estimation of the attainment of the targets by each Member State;
  - (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;

- (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.

*Article 37*

**Waste management plans and waste prevention programmes**

Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 43, 44 and 46 of this Regulation.

- 1a.** *Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive 2008/98/EC a dedicated chapter on the prevention of packaging and packaging waste and littering, including measures taken pursuant to Articles 38 and 45 of this Regulation.*

**SECTION 2**

**WASTE PREVENTION**

*Article 38*

**Prevention of packaging waste**

1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by **at least**
- (a) 5 % by 2030;
  - (b) 10 % by 2035;
  - (c) 15 % by 2040.

*(ca) In order to support Member States in achieving the packaging waste prevention targets of paragraph 1, by [24 months from the date of entry into force of this regulation], the Commission by means of implementing acts, shall adopt a correction factor to account for the increase or decrease in tourism in relation to the base year. This correction factor shall be based on the rate of packaging waste generation per tourist and the variation of tourists in relation to the reference year and take the packaging waste reduction potential in tourism into account.*

*1b. Without prejudice to paragraphs 1 and 1a, Member States that have already established separate systems for the management of packaging waste, one system for household packaging waste and the other for industrial and commercial packaging waste, may retain these systems.*

*1a. In achieving the targets set out in paragraph 1, each Member State shall endeavour to reduce the amount of plastic packaging waste generated.*

*2. Member States shall, in line with the overall objectives of the Union's waste policy and in order to reach the targets set out in this article, implement measures aiming to prevent the generation of packaging waste and to minimise the environmental impact of packaging. In addition to measure specified under this Regulation, such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC or other appropriate instruments and measures, including incentives through extended producer responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. They shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty. Such measures shall not lead to a shift to lighter packaging material fulfilling the goal of waste minimisation.*

*2a. For the purpose of paragraph 2 and without prejudice to Article 16, paragraph 2, of Directive (EU)2020/2184, Member States shall incentivise restaurants, canteens, bars, cafés and catering services to serve their customers, where available, tap water for free or for a low service fee, in a reusable or refillable format.*

3. For the purpose of paragraph 2, Member States may *introduce packaging waste prevention* measures *that exceed the minimum targets set out in paragraph 1, while complying with the provisions set out in this Regulation.*
- 3a. *By way of derogation from paragraph 1, Member States may by 2025 request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2 and 3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under the condition that the Member State provide substantiated evidence*
- (i) of a significant increase of packaging waste during the year to be used for base as calculation of the targets under paragraph 1*
  - (ii) that such increase is due to changes in the reporting procedures only,*
  - (iii) the increase is not due to an increased consumption, and*
  - (iv) of better comparability of data between the Member States.*
4. By [OP: Please insert the date = 7 years after the date of entry into force of this Regulation], the Commission shall review the targets laid down in paragraph 1 *and assess the need to include specific targets for certain packaging materials.* To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.

## SECTION 3

### REGISTER OF PRODUCERS AND EXTENDED PRODUCER RESPONSIBILITY

#### *Article 39*

#### **Register of producers**

1. Member States shall, **by 18 months from the entry into force of the implementing acts referred to in Article 39(11)**, establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter.

The register shall provide links to other national registers of producers' websites to facilitate, in all Member States, registration of producers or **authorised** representatives for the extended producer responsibility.

2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall, to that end, submit an application for registration in each Member State where they make packaging **or packaged products** available on the market **of the Member State** for the first time. Where a producer has **entrusted** a producer responsibility organisation as referred to in Article 41(1), the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.
3. **Member States may provide that** the obligations set out in this Article may, on , behalf **of producers by written mandate**, be met by an **authorised** representative for the extended producer responsibility.
4. Producers shall not make available packaging on the market **of a Member State**, if they or, where applicable, **in accordance with Article 40**, their **authorised** representatives for the extended producer responsibility, are not registered in **that** Member State.
5. The application for registration shall include the information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents **if such information or documents are necessary to monitor and to ensure compliance with this Regulation and the rules adopted by a Member State pursuant to Article 35(2)**.

6. Where an **authorised** representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the contact details of each one of the represented producers separately.
7. The producer or, where applicable, the producer's **authorised** representative for the extended producer responsibility or the producer responsibility organisation, **as stipulated by national law according to paragraph 2 of this Article**, shall report to the competent authority responsible for the register, **by 1 June** for each full preceding calendar year, the information set out in Part B of Annex IX. **Member States may require the reporting to be audited and certified by independent auditors under the supervision of the competent authorities referred to in Article 35 (1), on the basis, if any, of national standards.**
- 7a. **Producers, who have made available for the first time on the market of the Member State an amount of packaging or packaged products lower than 10 tons during one calendar year or, where applicable, the producer's authorised representative for the extended producer responsibility or the producer responsibility organisation, as stipulated by national law according to paragraph 2 of this Article, shall report to the competent authority responsible for the register, by 1 June, for each full preceding calendar year, the information set out in Part C of Annex IX.**

**Member States may provide that, for a specific calendar year, producers and, where applicable, the producer's authorised representatives or the producer responsibility organisation, are allowed to report on the basis of the subparagraph above only if they place an amount of packaging, the maximum threshold of which is lower than 10 tonnes during one calendar year, under the conditions that otherwise the Member State concerned will not have sufficient accurate data for**

- (i) complying with the reporting obligations under Article 50, paragraphs 1 and 2, in that calendar year, and**
- (ii) ensuring that the database under Article 51 are complete and provide the data under Article 50, paragraph 2, letter a).**



- 7b. When this is necessary for budgetary reasons, a Member State may require the producer to report the information set out in Part B and C of Annex IX to the competent authority responsible for the register under this Article on a quarterly basis.**
- 7c. Producers in the case of individual fulfilment of extended producer responsibility obligations, the entrusted producer responsibility organisation in the case of collective fulfilment of extended producer responsibility obligations, or the reuse system operators, in the case where reuse systems are fulfilling the extended producer responsibility obligations, shall report annually to the competent authority for each preceding calendar year the information set out in Part D of Annex IX. By virtue of national law, Member States may provide that, when public authorities are responsible for the organisation of the management of packaging waste, such authorities shall report the information set out in Part D of Annex IX.**
8. The competent authority responsible for the register:
- (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website;
  - (b) shall grant registrations and provide a registration number within a maximum period of twelve weeks from the moment that all the information laid down in paragraphs 5 and 6 is provided;
  - (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6;
  - (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2;
  - (e) shall receive and monitor the reporting referred to in *paragraphs 7 and 7a*.

9. The producer, or, where applicable, the producer's **authorised** representative for the extended producer responsibility or the producer responsibility organisation shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation of the making available **for the first time on the market** of the Member State of the packaging **or packaged product** referred to in the registration. A producer shall be excluded from the register **three years after the end of the calendar year in which the producer's registration ends** if the producer has ceased to exist **as a producer**.
10. **Member States shall ensure that the list of registered producers shall be easily accessible and, publicly available and free of charge. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use.**
11. The Commission shall, **by no later than [12 months after the date of entry into force of this Regulation]**, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the packaging types and material categories to be covered by the reporting.

**The format for reporting shall be interoperable, based on open standards and machine-readable data, and shall be transferable through an interoperable data exchange network without vendor lock-in.**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

#### *Article 40*

### **Extended Producer Responsibility**

1. Producers **■** shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging **or packaged product** that they make available **■** for the first time **on the market** of a Member State.

**1a. In addition to the costs referred to in Article 8a, paragraph 4 (a) of Directive 2008/98/EC, the financial contributions paid by the producer shall cover the following costs:**

- (a) costs of labelling waste receptacles for the collection of packaging waste as referred to in Article 12;**
- (b) costs of carrying out compositional surveys of collected mixed municipal waste under Commission Implementing Regulation (EU) 2023/595 and under the implementing acts to be adopted pursuant to Article 50 paragraph 7 (a) of this Regulation in case those implementing acts provide for an obligation to carry out such surveys; and**
- (c) the cost of cleaning up litter when this is undertaken by public authorities or on their behalf. Those costs shall be calculated on the basis of representative composition analysis of the litter.**

**The costs to be covered shall be established in a transparent, proportional, non-discriminatory and in an efficient way.**

**2. A producer as defined in Article 3, point (10) (iii) shall appoint, by written mandate, an authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time. Member States may provide that producers established in third countries shall appoint, by written mandate, an authorised representative for the extended producer responsibility when making packaged products available on their territory for the first time.**

**2a. Member States may provide that, when an automated data reconciliation with the national register is provided for within that Member State, this shall be applicable for verification of a) and b).**

3. ***For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065***, providers of online platforms, falling within the scope of Section 4 of Chapter ***III*** of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers shall obtain the following information from producers offering packaging to consumers located in the Union, ***prior to allowing them to use their services***:

- (a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located and the registration number(s) of the producer in that register;
- (b) a self-certification by the producer ***confirming that it only offers*** packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this Article are complied with in the Member State where the consumer is located.

***Where a producer sells its products via the online marketplace, obligations set out in Article 40(1a) may, on behalf of producers by written mandate, be met by the provider of the online platform.***

***3a. Upon receiving the information referred to in paragraph 3 and prior to allowing producers to use its services, the provider of online platforms shall make best efforts to assess whether the received information are complete and reliable.***

#### *Article 41*

### **Producer Responsibility Organisation**

1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.

2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, the Member State shall ensure that the producer responsibility organisations ***and producers that have not entrusted a producer responsibility organisation***, when taken together, cover the whole territory of the Member State as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.
3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their ***authorised*** representatives.
4. In addition to the information referred to in Article 8a(3), point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every year **■**, information on the amount of packaging ***or packaged product made available*** for the first time ***on the market*** of a Member State and on the levels of recovered and recycled materials in relation to the amount of packaging for which they have been performing producer responsibility obligations. ***Member States may provide that, when public authorities are responsible for the organisation of the management of packaging waste, such authorities shall publish on their websites, at least once a year, information on the levels of recovered and recycled materials in relation to the amount of packaging waste generated in their territory.***
5. ***Producer responsibility organisations shall ensure equal treatment of producers regardless of their origin or size, without placing a disproportionate burden on producers of small quantities of packaging, including small- and medium-sized enterprises.***

*Article 42*

**Authorisation on fulfilment of extended producer responsibility**

1. A producer, in the case of individual fulfilment of extended producer responsibility obligations, or the *entrusted* producer responsibility *organisation* in the case of collective fulfilment of extended producer responsibility obligations, shall apply for an authorisation from the competent authority.
2. The Member State shall in its measures laying down administrative and procedural rules referred to in Article 35, establish the requirements and details of the authorisation procedure, which can be different for either individual or collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the information to be provided by producers or *producer* responsibility organisations to that end. The authorisation procedure shall include requirements on the verification of the arrangements put in place to ensure compliance with the requirements laid down in paragraph 3, and timeframes for this verification, which shall not exceed **18** weeks from the submission of a complete application dossier. This verification shall be done by *a competent authority or* an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility organisations or the producers authorised for individual fulfilment.
3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that:
  - (a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with;

- (b) the measures put in place *or paid* by the producer or producer responsibility organisation are sufficient to allow for the return *and waste management of all packaging waste* in accordance with Article 43(1) and (2) and Article 44, free of charge *for consumers*, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types of packaging *or packaged products made available* for the first time *on the market* of a Member State by that producer or producers on whose behalf the producer responsibility organisation acts;
  - (c) the necessary arrangements, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf;
  - (d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and *high-quality* recycling;
  - (e) the requirement laid down in paragraph 6 is complied with;
4. The producer or the producer responsibility *organisation* shall notify the competent authority without undue delay of any changes to the information contained in the application for an authorisation, of any changes that concern the terms of the authorisation or of the permanent cessation of operations. *The competent authority may decide to modify the relevant authorisation according to the notified changes.*
5. The competent authority may decide to revoke the relevant authorisation in particular if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to *other extended producer responsibility obligations under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section such as* reporting to the competent authority or in relation to the notification of any changes that concern the terms of the authorisation, or has ceased operations.

6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility *organisation* appointed in the case of collective fulfilment of extended producer responsibility, shall provide an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case of *non-compliance* with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. *Member States may specify additional requirements on this guarantee. Such guarantee may take the form of a public fund that is financed by producers' fees and for which a Member State is jointly and severally liable.*

## SECTION 4

### RETURN, COLLECTION, DEPOSIT RETURN SYSTEMS

#### *Article 43*

#### **Return and collection systems**

1. Member States shall ensure that systems *and infrastructures* are set up to provide for the return and separate collection of all packaging waste from the end users, in order to ensure that it is treated in accordance with Articles 4, **10** and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and *high-quality recycling. Packaging complying with Design for Recycling criteria as established in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging is not to be allowed, with the exception of waste resulting from subsequent treatment operations of separately collected packaging waste for which recycling is not feasible or does not deliver the best environmental outcome.*
- 1a. In order to facilitate high quality recycling, Member States shall ensure that comprehensive collection and sorting infrastructures are in place to facilitate recycling and to ensure availability plastic feedstock for recycling. Such systems may provide priority access to recycled materials for use in applications where the distinct quality of the recycled material is preserved or recovered in such a way that it can be recycled further and used in the same way and for a similar application, with minimal loss of quantity, quality or function.*



2. Member States may allow derogations from ***the return and separate waste collection obligation in paragraph 1 for certain formats of waste*** provided that collecting packaging or fractions of ***such*** packaging waste together or together with other waste does not affect the ***capacity*** of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.
3. The systems referred to in paragraph 1 shall:
  - (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf;
  - (b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities, and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas, ***which shall be of sufficient capacity***;
  - (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.
- 3a. ***Member States may provide for the participation of public waste management systems in the organisation of the systems referred to in paragraph 1.***
4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.
- 5a. ***Member States may ensure that packaging waste that is not separately collected is sorted prior to disposal or energy recovery operations to remove packaging designed for recycling.***

## Article 43a

### *Mandatory collection*

1. *By 1 January 2029, Member States shall adopt mandatory collection objectives and take the necessary measures to ensure the collection of the materials listed in Article 46 are consistent with the recycling targets defined in Article 46 and with the mandatory recycled content targets defined in Article 7.*

## Article 44

### **Deposit and return systems**

1. By 1 January 2029, Member States shall take the necessary measures to ensure *the separate collection of at least 90% per year by weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year:*
  - (a) single use plastic beverage bottles with the capacity of up to three litres; and
  - (b) single use metal beverage containers with a capacity of up to three litres.

*Member States may use the amount of packaging waste generated from packaging placed on the market to calculate the targets laid down in points (a) and (b) as set out in the implementing act under Article 47(2) .*

2. *In order to achieve the targets referred to in paragraph 1, Member States shall take the necessary measures to ensure that deposit return systems are set up for the relevant packaging formats referred to in paragraph 1, and to ensure that a deposit has to be charged at the point of sale. Member States may exempt economic operators from charging a deposit in case a product is consumed within the premises in the HORECA sector provided that the deposit bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.*

*The obligation set out in the first sentence of the first subparagraph does not apply to packaging for:*

(a)

- (i) *wine and categories of wine products listed in Part II of Annex VII to Regulation (EU) No 1308/2013 point 1, 3, 8, 9, 11, 12, 15, 16 and 17, aromatised wine products as defined in Regulation (EU) No 251/2014;*
- (ii) *similar products to wine products and aromatised wine products obtained from fruit other than grapes and vegetables and other fermented beverages falling within CN code 2206 00;*
- (iii) *alcohol-based spirituous beverages corresponding to heading 2208 of the Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.*

(b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.

*Member States may exempt single use plastic beverage bottles and single use metal beverage containers with capacities lower than 0,1 litres from participation in the deposit and return systems, where such participation is not technically feasible.*

3. ■ Member *States may* be exempted from the obligation under paragraph 2 under the following conditions:

- (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as reported to the Commission under Article 50(1) point (c) is above **80%** by weight of such packaging *made available* on the market *for the first time* on the territory of that Member State in the calendar *year 2026* . Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled;

- (b) at the latest **12** months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.
4. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point **(b)** of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.
5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the Commission notified the Member State concerned that the exemption no longer applies.
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, **and** beverage cartons **■**. Member States shall endeavour to ensure that deposit and return systems for single-use packaging formats, in particular for single use glass beverage bottles, are equally available for reusable packaging where technically and economically feasible.
7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article ***such as the possibility to include packaging listed in paragraphs 2(a) and (b), and packaging for other products or made of other materials.***
8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are ***also*** convenient for end users ***as they are*** to return single-use packaging to a deposit and return system.

9. By 1 January **2029**, Member States shall ensure that *at least the* deposit and return systems established under paragraph 2 *after the entry into force of this Regulation*, meet the minimum criteria listed in Annex X.

*The minimum criteria listed in Annex X shall not apply to deposit and return systems established before the entry into force of this Regulation, which achieve the 90 % target set in paragraph 1 by 1 January 2029. Member States shall endeavour to ensure that existing deposit and return systems comply with the minimum requirements in Annex X when they are first reviewed. If the 90 % target is not achieved by 1 January 2029, existing deposit and return systems shall comply with the minimum requirements in Annex X at the latest by 1 January 2035.*

*By 1 January 2038, the Commission, in collaboration with the Member States, shall assess the implementation of this Article and identify how to maximise the interoperability of the deposit and return system.*

- 9a. *The minimum criteria listed in Annex X shall not apply in outermost regions as recognised in the fourth subparagraph of Article 349 of the Treaty, taking into account their local specificities.*

## SECTION 5

### RE-USE AND REFILL

#### *Article 45*

#### **Re-use and refill**

1. Member States shall take measures to encourage the set-up of systems for re-use of packaging *with sufficient incentives for return* and systems for refill in an environmentally sound manner. Those systems shall comply with the requirements laid down in Articles 24 and 25 and Annex VI of this Regulation and shall not compromise food hygiene or the safety of consumers.
2. The measures referred to in paragraph 1 may include:

- (a) the use of deposit and return systems compliant with minimum requirements in Annex X for reusable packaging and for other packaging formats that those referred to in Article 44(1),
- (b) the use of economic incentives, including requirements to final distributors, to charge the use of single-use packaging *and* to inform consumers about the cost of such packaging at the point of sale,
- (c) requirements on *manufacturers or* final distributors to make available in reusable packaging within a system for re-use or through refill a certain percentage of other products than those covered by targets laid down in Article 26 on the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States.

**2b. *Member States shall ensure that extended producer responsibility schemes and deposit systems dedicate a minimum share of their budget to financing reduction and prevention actions.***

## SECTION 6

### RECYCLING TARGETS AND PROMOTION OF RECYCLING

#### *Article 46*

#### **Recycling targets and promotion of recycling**

1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory:
  - (a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated;
  - (b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:
    - (i) 50 % of plastic;
    - (ii) 25 % of wood;

- (iii) 70 % of ferrous metals;
  - (iv) 50 % of aluminium;
  - (v) 70 % of glass;
  - (vi) 75 % of paper and cardboard;
- (c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated;
- (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:
- (i) 55 % of plastic;
  - (ii) 30 % of wood;
  - (iii) 80 % of ferrous metals;
  - (iv) 60 % of aluminium;
  - (v) 75 % of glass;
  - (vi) 85 % of paper and cardboard.

2. Without prejudice to paragraph 1, **points (a) and (c)** a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), **and (d)(i) to (vi)** by up to 5 years, under the following conditions:

- (a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets,
- (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %,

- (c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) **and** (vi) of paragraph 1 is not reduced below 60 %, and ***the recycling rate for a single target referred to in paragraph 1, point (d)(v) and (vi) is not reduced below 70% and***
- (d) at the latest 24 months before the respective deadline laid down in paragraph 1, ***points (b) and (d)***, of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC,.
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request. ***If the Commission considers that the plan still does not comply with the requirements set out in Annex XI, which means that it is unlikely that the Member States will be able to meet the targets within the additional period requested by the Member State, but not longer than 5 years, the Commission shall reject the implementation plan and the Member States shall be obliged to comply with the targets within the deadlines set in paragraph 1, points (a) and (c) of this Article.***
4. By [***OP: Please insert the date = 7 years after the date of entry into force of this Regulation***], the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.
5. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by:
- (a) improving market conditions for such materials;
- (b) reviewing existing rules preventing the use of such materials.



6. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum *targets* set out in this Article.

#### *Article 47*

##### **Rules on the calculation of the attainment of the recycling targets**

1. The calculation whether the targets laid down in Article 46(1) have been attained shall be carried out in accordance with the rules laid down in this Article.
2. Member States shall calculate the weight of packaging waste generated in a given calendar year. The calculation of packaging waste generated in a Member State must be exhaustive.

*The methodology to calculate the packaging waste generated shall be based on the following approaches*

- (a) the packaging made available on the market in a Member State in that specific year, or*
- (b) the amount of packaging waste generated in the same year in that Member State.*

*Calculations based on the two approaches referred to in points (a) and (b) shall be adjusted to ensure comparability, reliability and exhaustiveness of the results in accordance with the requirements and verifications to be established under implementing act referred to in Article 50(7)(a).*

3. Member States shall calculate the weight of packaging waste recycled in a given calendar year. The weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.

4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.
5. █
6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation.

By way of derogation from the first sub-paragraph of this *paragraph*, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that:

- (a) such output waste is subsequently recycled;
  - (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in paragraphs 2 *to* 6 are met. That system may consist of electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC or technical specifications for the quality requirements of sorted waste. It may also consist of average loss rates for sorted waste for various waste types and waste management practices respectively, provided that reliable data cannot be otherwise obtained. Average loss rates shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.
  8. The amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.

9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as recycled.
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.
11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted as recycled by the Member State in which that packaging waste was collected.
12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter *provides documentary evidence* that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are ■ equivalent to the requirements of the relevant Union environmental law.

*Article 48*

**Rules on the calculation of the attainment of the recycling targets by including re-use**

1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging.

The adjusted level shall be calculated by subtracting:

- (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in the first subparagraph in all sales packaging placed on the market, and
- (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market.

No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.

2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point (a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).

## SECTION 7

### INFORMATION AND REPORTING

#### *Article 49*

#### **Information on prevention and management of packaging waste**

1. In addition to the information referred to in Article 8a(2) of Directive 2008/98/EC and in Article 11 of this Regulation, producers or, where *entrusted* in accordance with Article 41(1), producer responsibility organisations, *or public authorities appointed by Member States when applying Article 8a (2) of Directive 2008/98/EC*, shall make available to end-users, in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State:
  - (a) the role of end-users in contributing to waste prevention, including any best practices;

- (b) re-use arrangements available for packaging;
- (c) the role of end-users in contributing to the separate collection of packaging waste materials, including handling of packaging containing hazardous products or waste;
- (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product;
- (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single-use packaging, in particular plastic carrier bags;
- (f) the composting properties and appropriate waste management options for compostable packaging ***according to article 8(2). Consumers shall be informed that compostable packaging is not suitable for home composting and compostable packaging shall not be discarded in nature.***

***Obligations under paragraph 1, point (d), shall be applicable as of [OP: Please insert the date = 42 months from the date of entry into force of this Regulation] or the date of application of Article 11, whichever is the latest.***

2. The information referred to in paragraph 1 shall be up to date and provided by means of:
- (a) a website or other means of electronic communication;
  - (b) public information;
  - (c) education programmes and campaigns;
  - (d) signposting in a language, or languages, which can be easily understood by users and consumers.

3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.

*Article 50*

**Reporting to the Commission**

1. Member States shall report to the Commission for each calendar year the following data:
- (a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging,
  - (b) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags, ***thick plastic carrier bags and very thick plastic carrier bags*** per person, separately for each category ***as listed in Table 5 of Annex XII***;
  - (c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1),

Member States may ***also*** provide data on the annual consumption of ***other material*** carrier bags ■ .

2. Member States shall report for each ■ calendar year data on:
- (a) the amounts of packaging ***made available*** on the market for ***the first time on the territory of that Member State for each packaging category*** as listed in Table 4 of Annex XII;
  - (b) amounts of ■ collected packaging waste for each packaging material as ***referred to in Article 46***;
  - (c) the ***amounts of recycled packaging waste and recycling rates for each packaging category as listed in Table 4 of Annex XII***;
  - (d) ■

3. The first reporting period shall concern:
  - (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, the *second* full calendar year after the entry into force of the implementing act that establishes the format for reporting to the Commission, in accordance with paragraph 7;
  - (b) with respect to obligation laid down in paragraph 1, point c, the calendar year starting from 1 January 2028.
4. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in accordance with paragraph 7.
5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the format established by the Commission in accordance with paragraph 7.
6. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article *47(8) and (12)*, including detailed information about the average loss rates where applicable.
7. The Commission shall, by [*OP: Please insert the date = 24 months from the date of entry into force of this Regulation*], adopt implementing acts establishing:
  - (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting;
  - (b) the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting;

- (c) *the correction factor referred to in Article 38(1a) to account for the increase or decrease in tourism in relation to the base year, for the purpose of achieving the packaging waste prevention targets.*

■

8. Member States shall require that *system operators for reuse systems and* all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant, particular problems *faced by* small and medium-sized enterprises with regard to the provision of detailed data.

#### *Article 51*

#### **Packaging databases**

1. *By 12 months from the date of adoption of the implementing acts referred to in Article 50(7),* Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis, *to enable the reporting to the Commission.*
2. The databases referred to in paragraph 1 shall include the following:
- (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States;
  - (b) ■
  - (c) the data listed in Annex XII.
- 2a. *The packaging databases shall be accessible to the wider public in a format that is machine-readable and allows updated data access regarding reporting and cost of packaging waste management, ensures interoperability and re-use of data. They shall be provided by means of:*
- (i) *a website or other means of electronic communication, in the official language of the Member State concerned or*



(ii) *public reports in the official language of the Member State concerned.*

*These requirements shall be without prejudice to commercially sensitive information or data protection laws.*

## **Chapter VIII**

### **Safeguard procedures**

#### *Article 52*

#### **Procedure for dealing with packaging presenting a risk at national level**

1. Without prejudice to Article 19 of Regulation (EU) 2019/1020, where the market surveillance authorities of one Member State have sufficient reason to believe that packaging covered by this Regulation presents a risk to the environment or human health, they shall, ***without undue delay***, carry out an evaluation in relation to the packaging concerned covering all requirements laid down in this Regulation that are ***relevant*** to the risk. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

***For the purpose of paragraph 1, the authorities responsible for the enforcement of this Regulation shall follow up on complaints or reports related to alleged non-compliance of packaging and packaged products with this Regulation, and verify that the appropriate corrective action has been taken.***

Where, in the course of that evaluation, the market surveillance authorities find that the packaging does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective measures, within a reasonable period prescribed by the market surveillance authorities which is commensurate with the nature and, where relevant the degree of the non-compliance, to bring the packaging in compliance with those requirements.

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.
3. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.
4. The economic operator shall ensure that all appropriate corrective measures *are* taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.
5. Where the relevant economic operator does not take adequate corrective measures within the period referred to in *paragraph 1*, second subparagraph, or the non-compliance persists, the market surveillance authorities shall take all appropriate provisional measures to prohibit the making available of the packaging on their national market, to withdraw the packaging from that market or to recall it.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

6. The information to the Commission and the other Member States referred to in paragraph 5 shall be communicated through the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall include all available details, in particular the data necessary for the identification of the non-compliant packaging, the origin of the packaging, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator and, where applicable, the information referred to in Article **55(I)**. The market surveillance authorities shall also indicate whether the non-compliance is due to either of the following:

- (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation;
- (b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.

7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the adopted national measure, of their objections.
8. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

Provisional measures may provide for a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.

9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.

### *Article 53*

#### **Union safeguard procedure**

1. Where, on completion of the procedure set out in Article **52(5) and (6)**, objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide by means of an implementing act whether the national measure is justified or not.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).

2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators.

If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly.

If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.

3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.
4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.

#### *Article 54*

### **Compliant packaging which presents a risk**

1. Where, having carried out an evaluation under Article 52, a Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of risk, to ensure that the packaging concerned, when placed on the market, no longer presents that risk, to ***bring the packaging into conformity, to withdraw it*** from the market or to recall it.

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.
3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.
4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the packaging, the nature of the risk involved and the nature and duration of the national measures taken.
5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall ***adopt an implementing act determining*** whether the national measure is justified or not and, where necessary, propose appropriate measures.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).

On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 59(4).

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

**Controls on packaging entering the Union market**

1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article **52(5)** of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the non-compliant packaging to which the measures apply and, in case of packaged product, the product itself.
  - 1a. *The authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 of this Article for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.***
2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.
3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article **52(6)** to the environment referred to in paragraph 2. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 4
4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the implementation arrangements for paragraph 3 including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).

*Article 56*

**Formal non-compliance**

1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:
  - (a) the EU declaration of conformity has not been drawn up
  - (b) the EU declaration of conformity has not been drawn up correctly;
  - (c) the QR code or data carrier referred to in Article 11 do not provide access to the required information in accordance with that Article;
  - (d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors;
  - (e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete;
  - (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled;
  - (g) the requirements on restrictions on uses of certain packaging formats *or* on excessive packaging set out in Articles 21 and 22 are not complied with;
  - (h) in relation to reusable packaging, the requirements on the establishment, operation *or* participation in a system for re-use referred to in Article 24 are not fulfilled;
  - (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled;
  - (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled;
  - (k) the re-use and refill targets in Article 26 are not achieved.
- (ka) the requirements on recyclable packaging set out in Article 6 are not fulfilled;*

***(kb) the requirements on minimum recycled content for packaging set out in Article 7 are not fulfilled;***

2. Where the non-compliance referred to in paragraph 1, points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made available on the market or ensure that it is recalled or withdrawn from the market.
3. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.

## **Chapter IX**

### **Green public procurement**

#### *Article 57*

#### **Green public procurement**

1. ***In order to incentivize the supply and demand for environmentally sustainable packaging, the Commission shall, by ... [OP: please insert the date = 60 months from the date of entry into force of this Regulation], adopt implementing acts specifying minimum mandatory requirements for public contracts falling within the scope of Directive 2014/24/EU for packaging or packaged products or for services using packaging or packaged products or Directive 2014/25/EU, and awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3(1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, in which the packaging or packaged products represent more than 30% of the estimated contract value or of the value of products used by the services object of the contract. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59 paragraph 3.***



2. The *requirements* set out in *the implementing acts under* paragraph 1 shall apply to *procedures* for the awarding of public contracts *referred to in that paragraph* initiated 12 months or later after the *date of* entry into force of the respective *implementing act*.
3. The ■ minimum mandatory green public procurement *requirements shall be* based on the requirements set out in *Articles* 5 to 10 and on the following elements:
  - (a) the value and volume of public contracts awarded for packaging or packaged products or for the services or works using packaging or packaged products;
  - (b) ■
  - (c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable packaging or packaged products, without entailing disproportionate costs;
    - (ca) *the market situation at Union level of the relevant packaging or packaged products;*
    - (cb) *the effects of the requirements on competition;*
    - (cc) *packaging waste management obligations.*
- 3a. *The minimum mandatory green public procurement requirements may take the form of:*
  - (i) *technical specifications within the meaning of Article 42 of Directive 2014/24/EU and of Article 60 of Directive 2014/25/EU.*
  - (ii) *selection criteria within the meaning of Article 58 of Directive 2014/24/EU and of Article 80 of Directive 2014/25/EU, or*
  - (iii) *contract performance conditions within the meaning of Article 70 of Directive 2014/24/EU and of Article 87 of Directive 2014/25/EU.*

Those *minimum mandatory* green public procurement *requirements* shall be developed in accordance with the principles contained in Directive 2014/24/EU and in Directive 2014/25/EU *to facilitate* the achievement of the objectives of this Regulation.

4. *Contracting authorities and contracting entities referred to in paragraph 1 may, in duly justified cases, derogate from the mandatory requirements specified in a implementing act referred to in paragraph 1 on the grounds of public security or public health. Contracting authorities and contracting entities may also, in duly justified cases, derogate from the mandatory requirements, when those would lead to unresolvable technical difficulties.*

## **Chapter X**

### **Delegated powers and committee procedure**

#### *Article 58*

##### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of ten years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period.
3. The delegation of power referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 59*

#### **Committee procedure**

1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
- 
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 of that Regulation, shall apply.

# Chapter XI

## Amendments

### *Article 60*

#### **Amendments to Regulation (EU) 2019/1020**

Regulation (EU) 2019/1020 is amended as follows:

(a) Annex I is amended as follows:

(i) **■**

(ii) the following points are added:

‘X [OP Please insert the next consecutive number] Directive (EU) 2019/904 of the European *Parliament* and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1);

‘X [OP Please insert the next consecutive number] Regulation (EU).../... on packaging and packaging waste, amending Regulation (EU) 2019/1020 and repealing *Directive* 94/62/EC [for the Publications Office to fill in the OJ publication details]. ’

(b) in Annex II, point 8 is deleted.

*Article 61*

**Amendments to Directive (EU) 2019/904**

Directive (EU) 2019/904 is amended as follows:

***(-a) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’***

***Article 22(4a) shall prevail when in conflict with Article 4 of Directive (EU) 2019/904 as regards single use plastic packaging listed in Annex V point 3.***

(a) in Article 6(5), ***points (a) and (b), are deleted as of 1 January 2030;***

(b) in Article 13(1), point (e), is deleted ***as of 1 January 2030;***

(c) Article 13(3) is replaced by ‘3. The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’

***(d) in Part B of the Annex, paragraphs (7), (8) and (9) are replaced by:***

***‘(7) Food containers made of expanded (EPS) or extruded (XPS) polystyrene, i.e. receptacles such as boxes, with or without a cover, used to contain food which:***

***(a) is intended for immediate consumption, either on-the-spot or take-away,***

***(b) is typically consumed from the receptacle, and***

***(c) is ready to be consumed without any further preparation, such as cooking, boiling or heating, including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food;***

(8) *Beverage containers made of expanded (EPS) or extruded (XPS) polystyrene, including their caps and lids;*

(9) *Cups for beverages made of expanded (EPS) or extruded (XPS) polystyrene, including their covers and lids.'*

*in Part B of the Annex, paragraphs (10), (11) and (12) are added:*

*'(10) shrink wrap that is used in airports or train stations for protection of luggage during transport.*

*(11) chips of polystyrene and other plastics that are used to protect packed goods during transport and handling. (12) multi-pack plastic rings used as grouped packaging as defined in Article 3(1), point 3 of the Packaging and Packaging Waste Regulation'.*

## Chapter XII

### Final provisions

#### Article 62

#### Penalties

1. By [**OP: Please insert the date = 24 months after the date of entry into force of this Regulation**], Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ■
2. ***For a failure to comply with the requirements of Articles 21 to 26 the penalties shall include administrative fines.*** Where the legal system of the Member State does not provide for administrative fines, ***this*** paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have equivalent effect to the administrative fines referred to in ***this*** paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.

3. Member States shall, by [**OP: please insert the date = 1 year after the date of entry into force of this Regulation**], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

### *Article 63*

#### **Evaluation**

By [OP: Please insert the date = 8 years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of packaging. ***That evaluation shall have a part dedicated to, inter alia, the impact of this Regulation on the agri-food system and on food waste.*** The Commission shall present a report on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.

### *Article 64*

#### **Repeal and transitional provisions**

Directive 94/62/EC is repealed with effect from [**OP: Please insert the date = 18 months from the date of entry into force of this Regulation**].

However, the following transitional provisions shall apply:

- (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = 30 months after the **■** entry into force of ***the implementing act referred to in Article 11(5)***];
- (aa) ***Article 9(1) and (2) of Directive 94/62/EC shall continue to apply with regard to the essential requirements pursuant to Annex II, point 1, first indent until 31 December 2029;***

- (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [**OP: Please insert the date = the last day of the calendar year following 36 months from the date of entry into force of this Regulation**];
- (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the *same* calendar year **in which the period of** 36 months **from** the date **of** entry into force **ends** ], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months **from** the date **of** entry into force of this Regulation]. ■
- (ca) *Decisions 2001/171/EC and 2009/292/EC shall remain in force and continue to apply until repealed by delegated acts adopted by the Commission pursuant to Article 5(5a) of this Regulation.*
- (cb) *Member States may maintain national provisions restricting the placing on the market of packaging in the formats and for the purposes listed in points 2 and 3 of Annex V until [OP, please insert the date = 3 years after the entry into force of the Regulation]. Article 4(4) shall not apply in relation to national measures maintained by virtue of this paragraph until [OP, please insert the date = 3 years after the entry into force of the Regulation].*

References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.



*Article 65*

**Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [*OP: Please insert the date = 18 months from the date of entry into force of this Regulation*].

*However, Article 61, point (d), shall apply from [OP: Please insert the date = 48 months from the date of entry into force of this Regulation]*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## Annex I

### INDICATIVE LIST OF ITEMS IN THE SCOPE OF THE DEFINITION OF PACKAGING IN ARTICLE 3(1)

#### Items covered by Article 3(1)(a)

##### **Packaging**

Sweet boxes

Film overwrap around a CD case

Mailing pouches for catalogues and magazines (with a magazine inside)

Cake doilies sold with a cake

Rolls, tubes and cylinders around which flexible material (e.g. plastic film, aluminium, paper) is wound, except rolls, tubes and cylinders intended as parts of production machinery and not used to present a product as a sales unit

Flower *and plant* pots intended to be used only for selling and transporting.

Glass bottles for injection solutions

CD spindles (sold with CDs, not intended to be used as storage)

Clothes hangers (sold with a clothing item)

Matchboxes

Sterile barrier systems (pouches, trays and materials necessary to preserve the sterility of the product)

Refillable steel cylinders used for various kinds of gas, excluding fire extinguishers

Tea and coffee foil pouches

*Boxes used for toothpaste tubes*

## **Non-packaging**

Flower *and plants pots, including seed trays, used in business to business relations throughout different stages of production or* intended to *be sold* with the plant.

Tool boxes

Wax layers around cheese

Sausage casing skins

Clothes hangers (sold separately)

Cartridges for printers

CD, DVD and video cases (sold together with a CD, DVD or video inside)

CD spindles (sold empty, intended to be used as storage)

Soluble bags for detergents

Grave side lights (containers for candles)

Mechanical quern (integrated in a refillable recipient, e.g. refillable pepper mill)

### **Items covered by Article 3(1)(d-e)**

#### **Packaging, if designed and intended to be filled at the point of sale**

Paper or plastic carrier bags

Disposable plates and cups

Cling film

Sandwich bags

Aluminium foil

Plastic foil for cleaned clothes in laundries

## **Non-packaging**

Stirrer

Disposable cutlery

Wrapping paper (sold separately to consumers and business operators)

Paper baking cases (sold empty)

Cake doilies sold without a cake

*Disposable plates and cups not intended to be filled at the point of sale*

## **Items covered by Article 3(1)(b-c)**

### **Packaging**

Labels hung directly on or attached to a product including sticky labels attached to fruits and vegetables

■  
Mascara brush which forms part of the container closure

Sticky labels attached to another packaging item

Staples

Plastic sleeves

Device for measuring dosage, which forms part of the container closure for detergents

Mechanical quern (integrated in a non-refillable recipient, filled with a product, e.g. pepper mill filled with pepper)

## **Non-packaging**

Radio frequency identification (RFID) tags

*Tyre labelling stickers (EU 2020/740)*

## Annex II

### CATEGORIES AND PARAMETERIS FOR ASSESSMENT OF RECYCLABILITY OF PACKAGING

**Table 1: Indicative list of packaging materials, types and categories referred to in  
Article 6**

<b>Cat. No (new)</b>	<b>Predominant packaging material</b>	<b>Packaging type</b>	<b>Format (illustrative and non- exhaustive)</b>	<b>Colour /  Optical transmittance</b>
<b>1</b>	<b>Glass</b>	<b>Glass and composite packaging, of which the majority is glass</b>	<b>Bottles, jars, flacons, cosmetics pots, tubs, ampoules, vials made of glass (soda lime silica), aerosol cans</b>	-
<b>2</b>	<b>Paper/cardboard</b>	<b>Paper/card board packaging</b>	<b>Boxes, trays, grouped packaging, flexible paper packaging (e.g. films, sheets, pouches, lidding, cones, wrappers)</b>	-
<b>3</b>	<b>Paper/cardboard</b>	<b>Composite packaging of which the majority is paper/card board</b>	<b>Liquid packaging board, and paper cups (i.e. laminated with polyolefin and with or without aluminium), trays, plates and cups, metallised or plastic laminated paper/cardboard, paper/cardboard with plastic liners/ windows</b>	-

4	Metal	Steel and composite packaging of which the majority is steel	Rigid formats (aerosols cans, cans, paint tins, boxes, trays, drums, tubes) made of steel, including tinfoil and stainless steel	-
5	Metal	Aluminium and composite packaging of which the majority is aluminium – rigid	Rigid formats (food and beverage cans, bottles, aerosols, drums, tubes, cans, boxes, trays) made of aluminium	-
6	Metal	Aluminium and composite packaging of which the majority is aluminium – semi rigid and flexible	Semi rigid and flexible formats (containers and trays, tubes, foils, flexible foil) made of aluminium	-
7	Plastic	PET – rigid	Bottles and flasks	Transparent clear / coloured, opaque
8	Plastic	PET – rigid	Rigid formats other than bottles and flasks (Includes pots, tubs, jars, cups, mono- and multilayer trays and containers, aerosol cans)	Transparent clear / coloured, opaque

9	Plastic	PET – flexible	Films	Natural / coloured
10	Plastic	PE – rigid	Containers, bottles, trays, pots and tubes	Natural / coloured
11	Plastic	PE – flexible	Films, including multilayer and multi-material packaging	Natural / coloured
12	Plastic	PP – rigid	Containers, bottles, trays, pots and tubes	Natural / coloured
13	Plastic	PP – flexible	Films, including multilayer and multi-material packaging	Natural / coloured
14	Plastic	HDPE and PP – rigid	Crates and pallets, corrugated board plastic	Natural / coloured
15	Plastic	PS and XPS – rigid	Rigid formats (includes dairy packaging, trays, cups and other food containers)	Natural / coloured
16	Plastic	EPS – rigid	Rigid formats (includes fish boxes / white goods and trays)	Natural / coloured
17	Plastic	Other rigid plastics (e.g. PVC, PC) including multi-materials – rigid	Rigid formats, including e.g. intermediate bulk containers, drums	-



18	Plastic	Other flexible plastics including multi-materials – flexible	Pouches, blisters, thermoformed packaging, vacuum packaging, modified atmosphere/modified humidity packaging, including e.g. flexible intermediate bulk containers, bags, stretch films	-
19	Plastic	Biodegradable plastics[1] - rigid (e.g. PLA, PHB) and flexible (e.g. PLA)	Rigid and flexible formats	-
20	Wood, cork	Wooden packaging, including cork	Pallets, boxes, crates	-
21	Textile	Natural and synthetic textile fibres	Bags	-
22	Ceramics or porcelain stoneware	Clay, stone	Pots, containers, bottles, jars	-

[1] Please note that this category contains plastics that are readily biodegradable (meaning a proven ability to convert >90% of the original material into CO<sub>2</sub>, water and minerals by biological processes within 6 months) and regardless of the feedstock used for their production. Bio-based polymers that are not readily biodegradable are covered under the other relevant plastic categories.

**Table 1a: Indicative list of packaging materials and categories referred to in Article 6**

<b>Materials</b>	<b>categories</b>	<b>link to Table 1, Annex II</b>
<b>Plastic</b>	<b>PET rigid</b>	<b>cat 7, 8</b>
	<b>PE rigid, PP rigid, HDPE and PP rigid</b>	<b>cat 10, 12, 14</b>
	<b>Films/flexible</b>	<b>cat 9, 11, 13, 18</b>
	<b>PS, XPS, EPS</b>	<b>cat 15, 16</b>
	<b>Other rigid plastics</b>	<b>cat 17</b>
	<b>Biodegradable (rigid and flexible)</b>	<b>cat 19</b>
<b>Paper/cardboard</b>	<b>Paper/cardboard (except liquid packaging board)</b>	<b>cat 2, 3</b>
	<b>Liquid packaging board</b>	<b>cat 3</b>
<b>Metal</b>	<b>Aluminium</b>	<b>cat 5, 6</b>
	<b>Steel</b>	<b>cat 4</b>

<b>Glass</b>	<b>Glass</b>	<b>cat 1</b>
<b>Wood</b>	<b>Wood, cork</b>	<b>cat 20</b>
<b>Others</b>	<b>Textile, ceramics/porcelain and others</b>	<b>cat 21, 22</b>

## **Table 2: Recyclability performance grades**

**Packaging recyclability shall be expressed in the performance grades A, B or C.**

**From 2030, recyclability performance is based on Design for Recycling criteria. The Design for Recycling criteria shall ensure the circularity of the use of the resulting secondary raw materials of sufficient quality to substitute the primary raw materials.**

**The assessment based on Design for Recycling criteria shall be carried out per each packaging category listed in Table 1 of Annex II, taking into account the methodology established under paragraphs 4 of Article 6, and the related delegated acts, as well as the parameters established in Table 2a of Annex II. After weighing the criteria per packaging unit, it will be classified into categories A, B or C. When a packaging unit's recyclability performance grade is below 70%, it is considered to be non-compliant with the recyclability performance grades and therefore the packaging will be considered technically non-recyclable, and its placing on the market should be restricted.**

**From 2035, a new factor shall be added to the assessment of the packaging recyclability, which is the “recycled at scale” assessment. Consequently, a new assessment will be carried out based on the quantity (weight) of the material effectively recycled from each of the packaging categories according to the methodology established in the implementing acts adopted under paragraph 6 of Article 6. The thresholds related to the annual recycled packaging materials for compliance with the recycled at scale assessment shall be defined taking into account the target set in Article 3(1)(32).**

2030		2035			2038		
Recyclability Performance Grade	Design for recycling (DfR) Assessment of recyclability per unit, in terms of weighting	Recyclability Performance Grade (for DfR)	Design for recycling (DfR) Assessment of recyclability per unit, in terms of weighting	Recyclability performance Grade (for Recycled at scale Assessment)	Recyclability Performance Grade	Design for recycling (DfR) Assessment of recyclability per unit, in terms of weighting	Recyclability performance Grade (for Recycled at scale Assessment)
Grade A	higher or equal to 95 %	Grade A	higher or equal to 95 %	Grade A RaS	Grade A	higher or equal to 95 %	Grade A RaS
Grade B	higher or equal to 80%	Grade B	higher or equal to 80 %	Grade B RaS	Grade B	higher or equal to 80 %	Grade B RaS
Grade C	higher or equal to 70%	Grade C	higher or equal to 70%	Grade C RaS	Grade C CANNOT BE PLACED ON THE MARKET	higher or equal to 70%	Grade C RaS
TECHNICALLY NON-RECYCLABLE	Lower than 70%	TECHNICALLY NON-RECYCLABLE	Lower than 70%	NOT RECYCLED AT SCALE (below thresholds of Article 3(1)(32).	TECHNICALLY NON-RECYCLABLE	Lower than 70%	NOT RECYCLED AT SCALE (below thresholds of Article 3(1)(32).

**Table 2a: Non-exhaustive list of parameters for setting Design for Recycling criteria under Article 6**

The list in Table 2a will be used as a basis when defining design for recycling criteria (as set out in Article 6(4)). The design for recycling criteria will then be used in order to set the calculations leading to the performance grades listed in Table 2. In addition, the assessment of these parameters shall consider:

- separability of any component of packaging, either manually by consumers or in processing plants,
- efficiency of sorting and recycling processes e.g. yield,
- evolution of sorting and recycling technologies (to address the aspect if a packaging cannot be sorted today but it might be sortable in 2 years), and
- preservation of functionality of secondary raw materials enabling the substitution of primary raw materials.

The packaging functionality that the following parameters provide to the packaging shall be factored in in the setting of design for recycling criteria.

Parameters for design for recycling criteria	Parameter's relevance
Additives	Additives refer often to substances added to materials to confer specific properties. The presence of additives in the packaging containers can result in incorrect sorting of the packaging materials during the sorting process and can contaminate the obtained secondary raw materials.
Labels	Coverage rate of labels can affect the efficiency of the sorting process. Material of which the label is made of and type of glue/adhesive also affect the quality of the secondary raw material.

Sleeves	<p>Coverage rate of the sleeve on the main packaging body affects the possibilities for sorting. In addition, the use of sleeves, can affect the ability to separate them the main packaging body.</p> <p>The material of which the sleeve is made of can affect both the sortability and the recyclability of the packaging.</p>
<p>Closures and other small packaging components</p>	<p>Closures refer to components used to close or seal the packaging. There may be different types of closures, rigid or flexible, such as tamper evident shrink wrap, linings, caps, lids, seals, valves etc.</p> <p>The material of which the closures is made of can affect both the sortability and the recyclability of the packaging.</p> <p>Closures that are not firmly attached to the packaging can increase littering.</p> <p>Small packaging components attached to the main packaging body can affect the separability and the recyclability. Thus can be lost in the sorting and recycling process.</p>
Adhesives	<p>Adhesive can be used in such a way that they can be easily separated in the recycling process or by the end user or in a way that they do not affect the efficiency of the sorting and recycling processes. The presence of adhesive residues on the packaging can downgrade the quality (purity) of the secondary raw materials.</p> <p>Washable adhesives can ensure the separation from the main packaging body and that no adhesive residue remains in the secondary raw material.</p>
Colours	<p>Colour are substances that impart colour to the packaging material.</p> <p>Heavily dyed materials in paper or plastics can cause problems with regard to sorting and can downgrade the quality of secondary raw materials.</p>
Material composition	<p>Use of mono-materials or material combinations that permit easy separation and ensure high yield of secondary raw materials is preferable.</p>

<p><b>Barriers /coatings</b></p>	<p>The material or substance added to confer barrier properties (barrier), or a variety of materials applied on the surface to impart other properties (coating).</p> <p>The presence of barriers/coatings within the packaging can make recycling more difficult. Combinations that ensure high yield of secondary raw materials are preferable.</p>
<p><b>Inks and lacquers / printing/coding</b></p>	<p>Inks and lacquers are mixtures of colorants with other substances applied onto the material by a printing or coating process (ink) or a protective coating made of resin and/or cellulose ester dissolved in a volatile solvent (lacquer). Coding refers to printing applied directly to sales packaging for the purpose of batch coding and other information and branding.</p> <p>The use of inks with substances of concern hinders recycling, as those packaging units cannot be recycled. Printing inks when released can contaminate the recycling stream through the washing water. Likewise, printing inks, which are not released can impair the transparency of the recycling stream.</p>
<p><b>Product residues / ease of emptying</b></p>	<p>Residues of the content of the packaging can affect the sortability and the recyclability. The design of the packaging should enable the easy emptying of its content and when disposed of should be in a fully drained condition.</p>
<p><b>Ease of dismantling</b></p>	<p>Components that are firmly attached to each other can affect the sortability and the recyclability of the packaging. Packaging design can facilitate the possibility of separating different components into different material streams.</p>



### Annex III

#### COMPOSTABLE PACKAGING

Conditions to be considered when mandating *or introducing* the use of compostable packaging format:

- (a) it could not have been designed as reusable packaging or the products could not be placed on the market without packaging;
- (b) it is designed to enter the organic waste stream at the end of its life;
- (c) it is of *such* biodegradable nature *that it allows* the packaging to undergo physical or biological decomposition, including anaerobic digestion, resulting ultimately in conversion into carbon dioxide *and water, new microbial biomass*, mineral salts, and, *in the absence of oxygen, methane*,
- (d) its use significantly increases the collection of organic waste compared to the use of non-compostable packaging materials;
- (e) its use significantly reduces the contamination of compost with non-compostable packaging and *does not cause any problems in bio-waste processing*;
- (f) its use does not increase the contamination of non-compostable packaging waste streams.

**METHODOLOGY FOR PACKAGING MINIMISATION ASSESSMENT**

**Part I**  
**PART I**

**Performance criteria**

1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, *moisture loss, oxidation*, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.
  2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. *The packaging manufacturing processes may determine packaging design elements such as the shape of a container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.*
  3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. *Requirements may consist of dimensional co-ordination for optimum space utilisation, compatibility with palletising and de-palletising systems, handling and warehousing system, packaging system integrity during transport and handling.*
- 3a. *Packaging functionality: the packaging design shall ensure its functionality taking into account the purpose of the product and particularities due to the occasion of its sale, such as sales for gift purposes or on the occasion of seasonal events.*

4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. ***Requirements may include providing product information, instructions for storage, application and use, bar codes, best before date.***
5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. ***Requirements may include safe handling design, child resistance, anti-tamper, anti-theft, anti-counterfeit, hazard warnings, clear identification of content, safe opening device, pressure release closure.***
6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.
7. Recycled content, recyclability and re-use: The packaging design shall ensure ***reusability***, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. ***This means that the packaging weight or volume may have to be increased, beyond what would otherwise be possible under the other performance factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material or PCR Post Consumer Recycled content).***

## Part II

### PART II

#### Assessment methodology and determination of the minimum packaging volume and weight

The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:

- (-a) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;
- (a) for each performance criterion as listed in Part I, ***a description shall be made which explains the design requirement that prevents*** further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging material shall be investigated, ***such as the reduction of any superfluous layer which does not perform a packaging function. Substitution of*** one packaging material with another ***shall not be considered sufficient***;
- (b) ■
- (c) any test results, market research or studies that have been used for the assessment conducted under points (a) and (b).

Annex V

**RESTRICTIONS ON USE OF PACKAGING FORMATS**

	<b>Packaging format</b>	<b>Restricted use</b>	<b>Illustrative example</b>
1.	Single-use plastic grouped packaging	Plastic packaging used at <b>the point of sale</b> to group goods sold in <b>bottles, cans, tins, pots, tubs, and packets</b> designed as convenience packaging to enable or encourage <b>consumers</b> to purchase more than one product. This excludes grouped packaging necessary to facilitate handling .	Collation films, shrink wrap
2.	Single use plastic packaging for <b>unprocessed</b> fresh fruit and vegetables	Single use <b>plastic</b> packaging for less than 1.5 kg pre-packed fresh fruit and vegetables. <b>Member States may set up exemptions to this restriction</b> if there is a demonstrated need to avoid water loss, or turgidity loss, microbiological hazards or physical shocks, <b>oxidation, or if there is no other possibility to avoid commingling of organic fruits and vegetables in compliance with requirements in regulation EU 2018/848, on certification or labelling, without entailing disproportionate economic and administrative costs.</b>	Nets, bags, trays, containers
3.	Single use plastic packaging	Single use <b>plastic</b> packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by several economic operators or third party for the purpose of food and drinks consumption. <b>Establishments in the HORECA sector that do not have access to drinking water are exempted.</b>	Trays, disposable plates and cups, bags, , boxes
4.	Single use <b>plastic</b> packaging for condiments, preserves,	Single use <b>plastic</b> packaging in the HORECA sector, containing individual portions or servings, used for condiments,	Sachets, tubs, trays, boxes

	sauces, coffee creamer, sugar, and seasoning in HORECA sector	preserves, sauces, coffee creamer, sugar and seasoning, <b>except in the following cases:</b>  A) such packaging is provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation;  B) such packaging is required to ensure safety and hygiene in establishments where there is a medical requirement for individualised care, such as hospitals, clinics, nursing homes.	
5.	Single use accommodation sector packaging intended for an individual booking	Single use packaging for cosmetics, hygiene and toiletry products <b>for the use in the accommodation sector, according to NACE Rev. 2 – Statistical classification of economic activities<sup>1</sup>, intended for an individual booking only and intended to be discarded before the next guest arrives.</b>	Shampoo bottles, hand and body lotion bottles, sachets around bar soap
6.	Very lightweight plastic carrier bags	Very lightweight plastic carrier bags, except for very lightweight plastic carrier bags required for hygiene reasons or provided as primary packaging for loose food when this helps to prevent food wastage.	Very thin bags provided for bulk groceries

## Annex VI

### REQUIREMENTS SPECIFIC TO THE SYSTEMS FOR RE-USE AND REFILL STATIONS

For the purposes of this Annex, the following definitions shall apply:

- (-a) ‘Governance guidelines’ is the description of the governance structure of a re-use system, defining the role of system participants, ownership and any foreseen transfer of ownership of packaging, as well as other relevant governance elements of the re-use system as defined in this Annex;*
- (a) ‘closed loop system’ shall mean a system for re-use in which reusable packaging is circulated by a system operator or a co-operating group of system participants without the change of the ownership of packaging;
- (b) ‘open loop system’ shall mean a system for re-use in which reusable packaging circulates amongst unspecified number of system participants, and the ownership of the packaging changes at one or more points in the re-use process;
- (c) ‘system operator’ shall mean any natural or legal person being a system participant, who manages a system for re-use;
- (d) ‘system participants’ shall mean any natural or legal person, who participates in the system for re-use and performs at least one of the following actions: collects the packaging either from end users or from other system participants, reconditions it, distributes it among system participants, transports it, fills it with products, packs it, or offers it to end users. System for re-use can comprise one or more participants performing these actions.

# Part I

## Part A

### Requirements for systems for re-use

#### General requirements for systems for re-use

The following requirements apply for all systems for re-use and shall be simultaneously satisfied:

- (a) The system has a clearly defined governance structure *as described in the guidelines*;
- (b) the governance structure ensures that the *objectives of the system in the governance guidelines and, if applicable, the re-use targets* and any other objectives of the system can be met;
- (c) the governance structure allows for equal access and fair conditions of all economic operators wishing to become a part of the system;
- (d) the governance structure allows for equal access and fair conditions for all end-users;
- (da) *The system is designed to ensure that reusable packaging rotating within it completes at least the minimum intended number of rotations as referred to in the delegated act adopted under Article 10.*
- (e) the system has rules defining its functioning, including requirements for packaging use, accepted by all system participants, and which should specify:
  - (i) types and design of packaging allowed to circulate in the system;
  - (ii) description of products intended to be used, filled or transported through the system;
  - (iii) terms and conditions for proper handling and packaging use;
  - (iv) detailed requirements for packaging reconditioning;



- (v) requirements for packaging collection;
  - (vi) requirements for packaging storage;
  - (vii) requirements for packaging filling or uploading;
  - (viii) rules to ensure the effective and efficient collection of reusable packaging, including incentives on end users to return the packaging to the collection points or grouped collection system;
  - (ix) rules to ensure equal and fair access to the reuse system including vulnerable end-users;
- (f) the system operator of the system controls the proper functioning of the system and verifies whether the re-use is properly enabled;
- (g) the system has reporting rules, allowing to access data on number of fillings or re-uses *i.e. rotations per category*, and rejects, collection rate *i.e. return rates*, units of sales or equivalent units, *including the material and per category, or an average estimation if the calculation is not feasible, and number of units of reusable or refillable packaging added to the system, number of units of packaging that have been handled by the end-of-life plan*;
- (h) design of the packaging is laid down in accordance with mutually agreed specifications or standards;
- (i) the system ensures a fair distribution of costs and benefits for all system participants.
- (j) *the system ensures the implementation of the Extended Producer Responsibility obligations for reusable packaging used in the system and that has become waste.*

*The open loop systems which do not have a system operator, are exempted from part A, points (b), (f) (g) and (i).*

*Open loop systems established prior to the entry into force of this Regulation shall be exempted from the requirements under Part A, 1. (a), (b), (c), (f), (g) and (i).*

### **Requirements for closed loop systems**

In addition to the general requirements under point 1, the following requirements shall be simultaneously satisfied:

- (a) The system has reverse logistics facilitating transfer of the packaging from the users or the end users back to the system participants;
- (b) the system ensures the collection, reconditioning and redistribution of packaging;
- (c) system participants are obliged to take the packaging back from the collection point if it has been used, collected and stored in accordance with the system rules;

### **Requirements for open loop systems**

In addition to the general requirements under point 1, the following requirements must be simultaneously satisfied:

- (a) After packaging is used, the system participant decides whether to re-use the packaging or to pass it to another system participant for re-use;
- (b) the system ensures that the collection, reconditioning and redistribution of packaging are in place and are generally available;
- (c) reconditioning meeting the requirements under Part B of this Annex is part of the system.

## Part II

### Part B

#### Reconditioning

1. The reconditioning process shall not create risks to the health and safety of those responsible for doing so and *minimize* its impact on the environment. It shall be operated in accordance with applicable legislation on contact sensitive materials, *waste and industrial emissions*.
2. Reconditioning shall cover the following operations adapted to the reusable packaging format and its intended use:
  - (a) assessment of condition of packaging;
  - (b) removal of damaged or non-reusable components;
  - (c) conveyance of removed components to an appropriate recovery process;
  - (d) cleaning and washing according to required hygiene conditions;
  - (e) reparation of packaging;
  - (f) inspection and assessment of fitness-for-purpose.
3. Where necessary, cleaning and washing processes should be applied at different stages of the reconditioning and repeated.
4. The reconditioned product shall meet health and safety requirements applicable to it.

## Part III

### Part C

#### **Requirements for refill**

■ Refill stations shall fulfil the following *requirement*:

- (a) contain a clear and precise information on:
  - (i) hygiene standards that the end user's container has to meet in order to be allowed to use the refill station;  
  
■
  - (ii) types and features of containers that can be used to purchase products through refill;
  - (iv) *contact details of the final distributor to ensure compliance with hygiene standards set out in applicable law.*
- (b) contain a *measuring* device *or provide similar means of ensuring* the end user *a specified amount for purchase*;
- (c) the price paid by end users *shall* not include the weight of the refill container.

■

## Annex VII

### CONFORMITY ASSESSMENT PROCEDURE

#### Module A

##### **Internal production control**

1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to **11** of this Regulation that apply to them.

2. Technical documentation

The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s) *of non-conformity*.

The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the packaging. The technical documentation shall contain, wherever applicable, at least the following elements:

- (a) a general description of the packaging and of its intended use,
- (b) conceptual design, manufacturing drawings and *materials* of components ■ , etc.
- (c) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging,
- (d) a list of:
  - (i) the harmonised standards, referred to in Article 31, applied in full or in part
  - (ii) the common ■ specifications, referred to in Article 32, applied in full or in part
  - (iii) other relevant technical specifications used for measurement or calculation purposes,

(iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied,

(v) in the event of harmonised standards and/or common specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1.

(e) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and,

(f) test reports.

### 3. Manufacturing

The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.

### 4. Declaration of conformity

The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the packaging has been placed on the market. The declaration of conformity shall identify the packaging for which it has been drawn up.

A copy of the declaration of conformity shall be made available to the relevant authorities upon request.

### 5. Authorised representative

The manufacturer's obligations set out in point 4 *as regards keeping of the technical documentation* may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.

## Annex VIII

### EU DECLARATION OF CONFORMITY NO\* ...

1. No.... (unique identification of the packaging):
2. Name and address of the manufacturer and, where applicable, its authorised representative.
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.
5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).
6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.
7. **Where applicable**, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).
8. Additional information  
  
Signed for and on behalf of:  
  
(place and date of issue):  
  
(name, function) (signature)

\* (identification number of the declaration)

## Annex IX

### INFORMATION FOR REGISTRATION AND REPORTING TO THE REGISTER REFERRED TO IN ARTICLE 39

#### Part I

##### **A. Information to be submitted upon registration**

1. The information to be submitted by the producer or its authorised representative for EPR shall include:
  - (a) name and brand names (if available) under which the producer *makes its packaging available on the market* in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, indicating a single contact point;
    - (aa) *where a producer has entrusted an authorised representative for the extended producer responsibility, in addition to the information referred in (a): name and address including postal code and place, street and number, country, telephone and e-mail address of the representative;*
  - (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number;  
  
**■**
  - (d) a declaration on how the producer meets its responsibilities under Article 40, *including the certificate issued by the producer responsibility organisation when article 41(1) applies.*



2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided *by the producer* shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and e-mail address and the national identification code of the producer responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.
3. In the case of *a producer responsibility organisation entrusted by the producer as referred to in Article 41(1), carrying out the obligation to register set in Article 39, it* shall, in addition to the information required under point 1 of Part A of this Annex, provide:
- (a) the names and contact details, including postal codes and places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented;
  - (b) the mandate of each represented producer, where applicable;
  - (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the represented producers meets the responsibilities set out in Article 40.

## Part II

### Information to be submitted for reporting

#### *B. Information to be submitted for reporting according to Article 39(7).*

- (a) national identification code of the producer;
- (b) reporting period;
- (c) quantities by weight of packaging *categories* as set out in Table 1 in Annex II that the producer makes available *on the market of* the Member State for the first time;
- 
- (g) arrangements to ensure the producer responsibility regarding the packaging ■ placed on the market.

#### *C. Information to be submitted for reporting according to Article 39(7a).*

- (a) *national identification code of the producer;*
- (b) *reporting period;*
- (c) *information on packaging types set out in Table 1.*
- (d) *arrangements to ensure the producer responsibility regarding packaging placed on the market*

**Table 1**

	Quantities by weight made available in member state
Glass	
Plastic	
Paper/cardboard	
Ferrous metal	
Aluminium	
Wood	
Other	
Total	

***D. Information to be submitted for reporting according to  
Article 39(7c).***

- (a) quantities, by weight, per category of packaging waste, as defined in Table 1a of Annex II, collected in the Member State and sent for sorting;***
- (b) quantities, by weight, per category of packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII;***
- (c) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII;***

## Annex X

### MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS

For the purpose of this Annex, the following definition shall apply:

‘system operator’ means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit and return system in a Member State. ’

#### Minimum general requirements for deposit and return systems

Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:

- (a) a single system operator is established or licenced *or, in case there is more than one system operator, Member State shall adopt measures to ensure coordination between the different system operators;*
- (b) the governance *and related operational rules* of the system *allow* for equal access and fair conditions of all economic operators wishing to become part of the system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;
- (c) control procedures and reporting systems are set up allowing the system operator to obtain data on the collection of packaging covered by the deposit and return system;
- (d) a minimum deposit level is established, which is sufficient to achieve the required collection rates;
- (e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;
- (f) system operator is a non-profit and independent legal entity;
- (g) system *operators perform* exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;

- (h) system *operators coordinate* the functioning of the deposit and return system;
- (i) system *operators keep* in writing:
  - (i) a statute establishing its internal organization;
  - (ii) evidence of its funding system;
  - (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates;
- (j) *a sufficient amount* of the annual turnover of the system operator *is* used for public awareness campaigns on the **■** management of packaging waste;
- (k) system operators must provide any information requested by the competent authorities of a Member State, in which the system operates, for the purposes of monitoring compliance with the requirements in this Annex;
- (l) Member States *shall* ensure that final distributors are obligated to accept the deposit bearing packaging *of the packaging material and format that they distribute and to* provide end users with redeemed deposits. When *the deposit bearing packaging is returned, unless end users have equally accessible means to redeem the deposit after the use of the deposit bearing packaging, through one of the collection channels that, for food packaging, ensure food grade recycling and that are authorised for that purpose by the national authorities.*

This obligation *does not apply where the sale surface area does not make possible for end users to return deposit bearing packaging. However, final distributors will always have to accept the return of the empty packaging of products they sell.*

**■**

- (n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;

- (o) all deposit bearing packaging *that is to be collected by a DRS system* is clearly labelled, so that the end users can easily identify the need to return such packaging.
- (p) fees are transparent;



In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.

Member States with regions with high transboundary business shall ensure that the *deposit and return systems* allows for *collection of packaging from other Member States' DRS at designated collection points and shall endeavour to enable the possibility of return of a deposit that was charged to the end user when purchasing the packaging.*



## Annex XI

### IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO POINT (D) OF ARTICLE 46(2)

The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:

- (a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;
- (b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;
- (c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;
- (d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;
- (e) a timetable for the implementation of the measures identified in point (d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;
- (f) information on funding for waste management in line with the polluter-pays principle;
- (g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.



## Annex XII

### **DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE**

#### **(IN ACCORDANCE WITH TABLES 1 TO 4)**

1. For sales, grouped and transport packaging:
  - (a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1);
  - (b) quantities **of reusable packaging** (Table 2).
2. For sales, grouped and transport packaging waste:
  - (a) **For each packaging category (Table 4):**
    - (i) **quantities made available on the market for the first time within the territory of the Member State;**
    - (ii) **quantities of generated packaging waste;**
    - (iii) **■**
    - (iv) **quantities disposed of, recovered, and recycled of packaging.**
  - (b) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5)
  - (c) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)

**Table 1****Quantity of packaging (sales, grouped and transport) generated within the national territory**

	Tonnage produced	- Tonnage exported	+ Tonnage imported	+ Tonnage stored	= Total
Glass					
Plastic					
Paper/cardboard ■					
Ferrous metal					
Aluminium					
Wood					
Other					
Total					

**Table 2**

**Quantity of total reusable packaging (sales, grouped and transport) reused-made available on the market for the first time within the national territory**

	Tonnage of packaging made available on the market for the first time on the territory of that Member State	Reusable packaging		Reusable sales packaging	
		tonnage	Percentage of total reusable packaging	Tonnage	Percentage of total reusable sales packaging
Glass					
Plastic					
Paper/cardboard					
Ferrous metal (including tinplate)					
Aluminium					
Wood					
Other					
Total					

**Table 4**

**Quantity per packaging category, as defined in Table 1a of Annex II, of: packaging made available on the market for the first time within the territory of the Member State; generated packaging waste; and packaging waste disposed of, recovered and recycled within the national territory and exported.**

Material	Category	Packaging made available on the market for the first time on the territory of the Member State (t)	Packaging waste generation (t)	Total packaging waste disposed of (t)	Total packaging waste Recovered (t)	Total packaging Waste recycled (t)	Total packaging waste disposed of (t)	Total packaging waste Recovered (t)	Total packaging Waste recycled (t)
				Within the national territory			Outside the national territory		
Plastic	PET rigid								
	PE rigid, PP rigid, HDPE and PP rigid								
	Films/flexible								
	PS, XPS, EPS								

	<b>Other rigid plastics</b>								
	<b>Biodegradable (rigid and flexible)</b>								
<b>Paper/card board</b>	<b>Paper/cardboard (except liquid packaging board)</b>								
	<b>Liquid packaging board</b>								
<b>Metal</b>	<b>Aluminium</b>								
	<b>Steel</b>								
<b>Glass</b>	<b>Glass</b>								
<b>Wood</b>	<b>Wood, cork</b>								
<b>Others</b>	<b>Textile, ceramics/porcelain and others</b>								

**Table 5**

**Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick plastic carrier bags per person, consumed within the national territory**

	Plastic carrier bags consumed within the national territory	
	Number per person	Tonnes per person
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>		
lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>		
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>		

**Table 6**

**Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)**

	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)
Single use plastic beverage bottles with the capacity of up to 3 litres		
Single use metal beverage containers with a capacity of up to 3 litres		

