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## **MEETING DOCUMENT**

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From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Packaging and Packaging waste: WPE on 10 October 2023: Steering note and text proposals by the Presidency

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With a view to the meeting of the Working Party on the Environment on 10 October 2023, delegations will find attached the following documents:

- A steering note from the Presidency
- Annex IA with text proposals for Cluster I
- Annex IB with the new table of Annex II of the Packaging and packaging waste regulation including an extra column that shows the former category numbers, to facilitate the comparison with the previous version
- Annex II with text proposals for Cluster 3
- Annex III with text proposals for Cluster 7.

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## **Working party on the Environment**

### **Presidency steering note for WPE 10 October 2023**

#### **Packaging and packaging waste regulation**

On 10 October 2023, the WPE will continue the examination of the proposed PPWR. The discussions will focus on PART1: **Cluster 1 – Sustainability requirements** (Articles 5, 6, 7, and 8 and Annexe I, II, III) **Cluster 3 – Reuse** (Articles 10, 23-28, 45 and Annex VI) and **Cluster 7 – GPP** (Article 57), as well as recitals and definitions related to these clusters.

As outlined above, the discussions will be structured into **three main blocks**, one block per cluster. In each block, the Presidency has identified several key issues based on the discussions of WPE meeting on 14 July (Part 1: Clusters 1, 3 and 7) as well as in delegations' comments and proposed amendments submitted, which need to be discussed in order to go forward. For each issue the Presidency invites delegations to express their views on the provisions, the proposed amendments and/or the matters proposed for debate.

This Steering note includes the issues to be discussed during the WPE of 10 October. Annexes IA, II and III contain the amendments proposed on the REV\_01 text regarding clusters 1, 3, and 7, based on delegations' comments. Annex IB includes the new table I of Annex II of the PPWR proposal with an extra column with the former category number, to facilitate the correspondence with the new categories proposed by the JRC.

The Presidency invites delegations to provide their written comments with remaining specific concerns on Part 1 (cluster 1, 3 & 7) of REV\_01, with the deadline 17 October, using the table that will be provided on 10 October.

## **CLUSTER 1: SUSTAINABILITY REQUIREMENTS**

### **A) Article 5. Requirements for substances in packaging, definitions and recitals corresponding.**

Based on delegations' comments and Commission suggestions, the Presidency proposes the following changes:

- 5(1b) Reverse the order of points (a) and (b) for better clarity and rewording to align with other Regulations (EPRS) as raised in the WPE of 14 July.
- 5(1c) Amendment for a greater clarity.
- Recitals 16 and 18, rewording to align with the wording of Regulation 2019/1021 (POP Regulation) and to better adjust to page 6 of the CSS Communication respectively.

### **B) Article 6. Recyclable packaging, corresponding definitions and recitals, and Annex II**

The requirement for resulting secondary raw materials to be of sufficient quality to substitute primary raw materials for packaging in the definition of recyclable packaging, has been very controversial. On the one hand, several delegations claim that it is too strict. On the other hand, other delegations want to support the closed loop of materials. The Presidency proposes to delete the direct link to the closed loop in the definition of recyclable packaging (Article 6(2c) of REV01), but to keep the specific mention of it as an element to be considered in the design for recycling criteria and recycling performance grades (Article 6(4a)). In this sense, when the resulting secondary raw materials are of sufficient quality to substitute primary raw materials for packaging, the recyclability performance grade is improved.

Another controversial topic has been the definition of 'recycled at scale' and its exceptions. A new definition of 'recycled at scale' is proposed and some flexibility has been given in new point f) in paragraph (3a).

To simplify, the recyclability performance grades have been reduced to 3 (A to C) Packaging shall not be placed on the market if it is not within grades A, B or C, no later than 1 January 2030. There is no need to create a fourth grade only for the purpose of its market restriction.

Moreover, based on delegations' comments, following amendments are proposed to Article 6:

- Article 6(2) has been regrouped for greater clarity, reordering in chronological order for the compliance of the requirements, and removing the requirement for the resulting secondary materials to be of sufficient quality to substitute primary raw materials only for packaging.

- New paragraph 2a with the resulting text after merging the last sentence of 6(2) with the first sentences of paragraph 3, all referring to fulfilment dates, simplified for greater clarity.
- Article 6(3). Introduce the recyclability performance grades (in REV 01 in paragraph 5) which have been reduced from 5 grades (A to E) to 3 grades (A to C). No later than 1 January 2030, packaging shall not be placed on the market, if it is not within grades A, B or C. The Presidency considers that there is no need to define a grade only to restrict the placement on the market (former paragraph 5), as it is stated that only the three defined grades can be placed on it, within the temporary exemption of innovative packaging as referred to in paragraph 9.
- New paragraph 3a. It reflects former Article 6(3) of Rev 01 with some amendments. Point a) has been moved to b) for greater clarity and the number of recyclability performance grades has been updated. It has also been introduced, to give some flexibility, that the contribution of each point a), b) and c) of paragraph 2 to the recyclability grade shall be set in. In addition, a new point f) is added also in order to give more flexibility at some delegations' request.
- Article 6(4)(a). Amendment to introduce flexibility to add subcategories or categories by the Commission if necessary. Editorial changes in Article 6(4) (a) and (b).
- Article 6(4a). Two new subparagraphs, one to clarify how the Commission will address the innovative nature of packaging, and another to set a deadline for compliance when changes in design for recycling criteria were carried out.
- Article 6(5) has been deleted and moved up to paragraph 3 with a new wording due to the simplification addressed in the number of performance grades and so on.
- Article 6(6). Amendments to replace type with category for coherence with the rest of the text, and modifications in the elements to align with the new definition of 'recycled at scale' in Article 3(32) and the information needed for its calculation.
- Article 6(6a). Deletion of 'at least' for greater clarity. A new provision referring to Member States may modulate the financial contributions according to the criteria laid down in Article 8a(4)(b) of Directive 2008/98/CE will be added in Article 41.
- Article 6(8). Amendment for greater clarity to include a specific mention to integrated components that separate from each other through mechanical stress during transportation or sorting.
- 6(9). Amendments have been introduced for coherence, editorial changes, reordering, and greater clarity.
- 6(10) and new (10a). Amendments to address delegations' comments asking for a review date instead of a sunset date, as well as an editorial change.

Regarding the definitions related to this article and based on delegations' comments, the following amendments have been introduced:

- Recycled at scale (Article 3(32))

The Presidency proposes the following new definition:

**3(32) ‘Recycled at scale’ means packaging waste which is separately collected, sorted and recycled in installed infrastructure and established processes proven in an operational environment which ensure an amount of recycled material greater than [50] % of the mass of each packaging category listed in Table 1 of Annex II placed on the market by 2035 and [60] % by 2040. 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)**

- ‘Design for recycling’ (Article 3(31)) replaced “in order to ensure” with “that ensures” for greater neutrality. As some delegations mentioned in case of not doing it, it might cause problems with compliance regulations (Annex VII).
- NEW (31a). A definition for ‘recyclability’ has been introduced because it is mentioned several times in the text.
- High-quality recycling (Article 3 (32)(b)) ‘or similar applications’ has been added at the end of the definition, to address delegations’ comments, so as not to restrict the use of secondary raw materials only to packaging, as there are other applications of equal value or quality.
- Innovative packaging (article 3(37)) has been amended for coherence.

Regarding **Annex II** based on delegations’ comments and the mentioned reduction in the number of recyclability grades, the Presidency proposes the following amendments:

- Table 1 has been replaced with the preliminary results of the study, carried out by the JRC, “Technical recommendations on packaging categories to support the design for recycling assessment of the Packaging and Packaging Waste Regulation Proposal”, which reduces categories from 30 to 22 (or even 20). For its correspondence with the former table, see Annex IB.
- Table 2: Recyclability performance grades have been updated to 3 (A, B, C), to simplify and redefine the thresholds according to this. Based on delegations’ comments, the column with the description has been deleted, due to incoherences and because it was very focused on only some categories of packaging.
- Table 2a has been amended with minor changes.

## **C) Article 7. Minimum recycled content in plastic packaging**

Based on delegations’ comments and WPE discussions on 14 July, the Presidency proposes the following modifications:

- Articles 7(1) and 7(2). Change the time base of the calculation of the recycled content from 3 months to a year to align with the Batteries Regulation. Corresponding recitals 29, 31 y 31a have been consequently modified.
- Article 7, paragraphs 1, 2, and 8. Linguistic changes, considering that time limits end at midnight on the indicated date.
- Regarding the **Biobased plastic issue** and considering comments from delegations in the last WPE meeting, the Presidency proposes **not to assimilate the content of**

**biobased plastics as recycled content to achieve the minimum percentage of recycled content set out in article 7.** It is due to the general opinion of delegations that biobased plastics present challenges in the assessment methodology of their environmental performance, with respect to plastics manufactured from fossil or synthetic starting substances. Many delegations understand that there should be more research into the impacts of these plastics to make the right decisions. The Presidency, addressing delegations' concerns, proposes a new paragraph 11a:

**(11a) 'By [OP: Please insert the date = 8 years after 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. Based on this assessment, the Commission is empowered to adopt delegated acts in accordance with Article 58 to amend paragraphs 1 and 2, setting out targets to increase the use of bio-based plastic in packaging through a hierarchical approach, where recycled content should be the first choice and bio-based plastic the second choice'.**

- Editorial changes have been made in Article 7, paragraphs 3(ea), 7, 9(b) and 10.

## **D) Article 8. Compostable packaging**

- Regarding home composting, and based on comments from delegations, the Presidency **proposes a modification in Art 8(1)** to limit the requirement for packaging to be home compostable to packaging referred to point (f) in Article 3(1) and sticky labels attached to fruit and vegetables, when infrastructures for this are in place in a Member State and national standards are met for this purpose, but adding the possibility that this packaging can also be compostable in industrially controlled conditions.
  - By [OP: please insert the date = 24 months from the entry into force of this Regulation], **by way of derogation from Article 6(1), packaging placed on the market** referred to in Article 3(1), points (f) ~~and (g)~~ and sticky labels attached to fruit and vegetables ~~and very lightweight plastic carrier bags~~ shall be **home** compostable in ~~industrially controlled conditions in bio-waste treatment facilities,~~ **to be placed on the market or compostable in industrially controlled conditions in bio-waste treatment facilities, and therefore allowed to be collected in bio-waste receptacles.**
- Editorial changes in Article 8(5a) for clarifying.
- 3(41) Compostable packaging definition: editorial change with no change of meaning.
- Article 3(41a). Definition of home composting to address delegations' comments that home composting could be also collective.

## E) Other changes and minor changes

- The Presidency proposes a ‘services packaging’ definition in a new paragraph 3 (1a), as follows, referring to also in 3 (1) d):

**3 (1a) service packaging which means packaging designed and intended to be filled at the point of sale to dispense the product.**

The Presidency also proposes to remove examples from the definition in recital (10a).

- 3 (35) separate component. To address comments from delegations, assuming these components appear separately in sorting, therefore it is logical to consider them equal to separate components when determining recyclability.
- Recital 20a. Editorial change.

**At the meeting of the WPE, the Presidency would like to know the views of delegations regarding:**

- amendments in “Article 5”;
- amendments in “Article 6”, and especially: the amendments in paragraph 2; the reduction in the number of performance grades in paragraph 3; the amendment in paragraph 3a b) -the possibility of different contributions to this grades of each point a) b) and c) of paragraph 2-; the new definition of recycled at scale (Article 3(32)) and the new point f) with its exceptions in paragraph 3a; and amendments in the definition of high quality recycling and in Annex II.
- “Article 7”, the time base (a year) of the calculation of the recycled content and other linguistic changes;
- biobased plastic and the proposal of a review in 8 years of the situation of biobased plastic in packaging and the possibility of setting out targets to increase biobased plastic through a hierarchical approach;
- “Article 8” and the double option of compostable or home compostable for point f) in Article 3 (1) and sticky labels attached to fruits and vegetables;
- the proposed changes on the definition of service packaging.

## CLUSTER 3: REUSE AND REFILL

Reuse is one of the key pillars of the PPWR for waste prevention and with a different objective from recycling (even high-quality recycling), also taking into account the waste hierarchy.

During the WPE of 15 September, the Commission presented the preliminary results of the non-paper of the JRC study explaining the different implications of reuse vs. single use, and the advantages associated with reuse in different scenarios.

Even though there are some delegations that want more ambitious reuse and refill targets and other delegations that want less, the Presidency considers that in order to move towards the general approach we must consolidate the REV\_1 proposal but introducing flexibility measures where appropriate.

That is why even though some delegations were in favour of separate targets for reuse and refill, the Presidency considers that the initial proposal (joint targets) gives greater flexibility for economic operators and final distributors to achieve them. It must be taken into account, as well as, that it has the corresponding impact assessment.

### F) Article 25. Obligations related to refill

The Presidency has decided to delete the proposal for a new paragraph 5 that included the retail sector in the refill targets, setting a percentage of minimum sales area to sold products without packaging, as there is no majority opinion of the delegations for it, and because the reuse and refill targets in article 26 will promote the establishment of these systems (bulk sales, refill station...) in any case.

### G) Article 26. Re-use and refill targets

As explained above, since there is no majority position, and in order to give sufficient flexibility for economic operators to achieve the targets, the Presidency proposes to maintain the joint objectives for reuse and refill.

The Presidency proposes to include a new definition of 'takeaway packaging' for the purposes of reuse and refill targets and to gain legal certainty in articles 26(2) and 26(3), taking advantage of the definition of 'service packaging' and the approach of the SUP Directive:

- (1a) 'take-away packaging' means service packaging purchased at attended points of sale, including cold or hot beverages filled into a container at the final distributor and ready-prepared food filled into a container at the final distributor, intended for immediate consumption without the need for any further preparation, and typically consumed from the receptacle;**



On the other hand, according to the comments of delegations, and to take into account the significant export component of this industry in all European wine-producing countries when wine must be packaged in a specific region, paragraph 3 of reuse objectives for alcoholic beverages and non-alcoholic in the form of wine, with the exception of sparkling wine, has been re-introduced. Nevertheless, these targets only apply to the final distributor and not to the manufacturer who will be in charge of searching for suppliers in these reusable formats, and the target has been reduced from 15 to 10% by 2040.

Moreover, to address the comments of delegations to be material-neutral, while giving enough flexibility to the economic operators, the Presidency has decided to set out new targets for transport packaging in paragraphs 12 and 13. This means that 25% of all transport packaging will be reusable by 2030, and 50% by 2040. This obligation applies to all materials, including cardboard.

12. Economic operators using transport packaging or sales packaging only used for transportation, for transporting products 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:
- (a) from 1 January 2030, 25% of such packaging is reusable within a system for reuse;
  - (b) from 1 January 2040, 50% of such packaging is reusable within a system for reuse.

This obligation applies to pallets, boxes, trays, plastic crates, intermediate bulk containers, drums and canisters, of all sizes and materials, including flexible formats.

13. Economic operators using transport packaging or sales packaging only used for transportation to deliver products to another economic operator within the same Member State, shall ensure that:
- (a) from 1 January 2030, 25% of such packaging is reusable within a system for reuse;
  - (b) from 1 January 2040, 50% of such packaging is reusable within a system for reuse.

This obligation applies to pallets, boxes, plastic crates intermediate bulk containers, and drums, of all sizes and materials, including flexible formats.

Paragraph 13b has been reordered for greater clarity, introducing some provision to ensure the recovery and return of reusable packaging through the entire distribution chain.

On the other hand, the Presidency has introduced the possibility to adjust the threshold in art. 26.14 and 26.15 according to national conditions.

For the purposes of paragraph 13b and 15 of the proposal, the Presidency has introduced a new definition of sales area for greater legal certainty:

- (30a) ‘Sales area’ means the area given to the display of goods offered for sale, to the payment thereof, and to the circulation of customers to carry out their purchases. This does not include the areas not open to the public, such as storage areas, or other areas such where products are not displayed, such as car parks.**

In this sense, the presidency would like to highlight that the provision of paragraph 15 includes storage areas, which in our opinion should not be counted because they are not open to the public.

Finally, the Presidency has moved paragraph 2(d) of Article 45 to a new paragraph 15a in Article 26, but it would only apply to packaging within the scope of Directive (EU) 2019/904, in accordance with recital 134a and article 61.

## **H) Article 27. Rules on the calculation of the attainment of the re-use and refill targets.**

Based on the comments received, the attainment of the re-use or refill targets should be calculated on the basis of the total number of units of sale or weight of ready-prepared food or the total number of units of sale or volume of beverage.

This is the reason why paragraph 2 has been divided in two, one explaining the methodology for beverages (targets set out in Articles 26(2), 26(4) and 26 (5)) and another for ready-prepared food (targets set out in Article 26(3)).

This methodology would make it flexible and add the possibility of an adequate account for larger capacity reusable packaging formats for beverage. On top of that, it allows a better approximation for the calculation of the refill targets.

## **I) Other minor changes**

Minor and editorial changes to align to the amendments introduced in the articles of this cluster: recitals (43), (67), (68), (70) and (71a); and definition (27) ‘reconditioning’.

**At the meeting of the WPE, the Presidency would like to know the views of delegations regarding the proposed amendments, and especially on:**

- **The definitions of ‘take-away packaging’ and ‘sales area’ for greater legal certainty.**
- **Reuse and refills targets for wine, which would apply only to the final distributor and not to the manufacturer.**
- **Reuse targets for transport packaging in Article 26(12) and 26 (13) to be material neutral (including cardboard).**
- **The possibility to adjust the threshold in Article 26(14) and 26(15) according to national conditions.**
- **The new paragraph 15a moved from paragraph 2(d) of Article 45, which would only apply to packaging within the scope of Directive (EU) 2019/904, in accordance with recital 134a and article 61.**
- **The calculation of the attainment of re-use or refill targets on the basis of the total number of units of sale or weight of ready-prepared food or the total number of units of sale or volume of beverages.**

## **CLUSTER 7: GREEN PUBLIC PROCUREMENT**

Based on delegations’ comments, the Presidency understands that there is a concern about some key aspects of Green Public Procurement. Regarding GPP, consistency with other legislation is relevant, as it was raised by many Member States. The main elements to consider are the form of the mandatory green public procurement requirements and the empowerment to the Commission to adopt delegated or implementing acts that establish those requirements.

In general, the most relevant GPP criteria (or requirements) are split into technical specifications and award criteria. According with the Commission Communication “Public procurement for a better environment”, GPP criteria will be formulated, in principle, as minimum technical specifications that all bids have to comply with. Some of the GPP criteria may also be formulated as environmental award criteria, to stimulate additional environmental performance without being mandatory, and therefore without foreclosing the market for products not reaching the proposed level of performance. Award criteria, if given a significant weighting, may however give an important signal to the market place.

Additionally, there could be more criteria regarding:

- selection criteria, related to suitability to pursue the professional activity; economic and financial standing; and technical and professional ability, and
- contract performance clauses, as special conditions relating to the performance of a contract.

It is the Presidency understanding that award criteria must also be in the content of the delegated act in article 57.3 of the Packaging Regulation to allow the possibility for contracting authorities to establish GPP requirements during the awarding of the contract. Additionally, selection criteria should also be included. Consequently, the proposal of the Presidency addresses these issues in article 57.3.

Regarding the empowerment for the Commission, there is again a different view. Some Member States ask for implementing act instead of delegated act. The Presidency considers that a delegated act is better suited here.

Also, there are other changes regarding GPP. In article 57.3(d) 'conditions' is used instead of 'clauses'. In 57.2 a change of wording is included to improve the clarity of the text. In recital 128 some changes are introduced as a consequence of changes in article 57.

**At the meeting of the WPE, the Presidency would like to know the views of delegations regarding:**

- **Mandatory green public procurement requirements and the empowerment of Commission to adopt delegated or implementing acts that establish those requirements.**
- **Proposed changes in Article 57 and corresponding recital 128.**

**Next step:** The Presidency will welcome written comments after the meeting of the Working Party, and delegations are invited to provide them no later than **17th October**.

**PRES ES TEXT proposal to address MS comments on cluster 1 of REV 01**

**PPWR**

***Corresponding recitals to cluster 1***

- (10a) Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are ~~not~~ designed and intended to be ~~filled at the point of sale~~ **sold empty by the final distributor**. Only when ~~these items~~ **items such as carrier bags, trays, wrappings, plates, cups for beverages, among others**, are designed and intended to be filled at the point of sale, **also defined as service packaging**, or ~~offered for sale pre-filled~~ **sold by the final distributor containing food and beverages**, they should be considered packaging, provided that they perform a packaging function.
- (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 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>. Furthermore, to ensure coherence regarding end-of-life financial and operational obligations, also all coffee or tea system single-serve units necessary to contain coffee or tea should be treated as packaging.
- (11a) **Packaging should be placed on the market only if it complies with the requirements in Chapter II, Articles 5 – 10, as the case may be, and with the labelling requirements in Article 11. Placing on the market is 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 does not need to meet those requirements.**
- (14) In line with the objectives of the Circular Economy Action Plan<sup>2</sup> and the Chemicals Strategy for Sustainability<sup>3</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 addresses impacts on human health and on the environment and on broader sustainability performance, including circularity, resulting from **the presence** ~~impacts~~ of substances of concern on **throughout** the whole life cycle of packaging, from manufacture to use and end-of life, including, waste management.

**Commented [af1]:** PRES: To address MS comments of remove examples from definition of service packaging to a recital.

<sup>1</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>2</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 A new Circular Economy Action Plan For a cleaner and more competitive Europe COM(2020)98 final.

<sup>3</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 the scientific and technological progress, packaging should be designed and manufactured in 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 an adverse effect on human health or the environment, throughout their life-cycle.
- (16) In line with the Zero Pollution Action Plan<sup>4</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>5</sup> and Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>6</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 the provisions of that Regulation apply for adopting or amending 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>7</sup>, it should be recalled that that Regulation applies to ensure a high level of protection of the consumers of packaged food. **Substances in packaging, and packaging components and packaging waste may also be subject to restrictions in other EU legislation, such as restrictions and prohibitions established for persistent organic pollutants under Regulation (EU) 2019/1021<sup>8</sup>.**
- (17) In addition to the restrictions set out in Annex XVII to Regulation (EC) No 1907/2006 and, as applicable to food contact **packaging materials and articles**, to provisions under Regulation (EC) No 1935/2004, it is appropriate, for reasons of consistency, to maintain existing restrictions

**Commented [ES2]:** PRES to align with the wording of Regulation 2019/1021 (POP Regulation)

<sup>4</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>5</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>6</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>7</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).

<sup>8</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)

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>9</sup> and Commission Decision 2009/292/EC<sup>10</sup> adopted under Directive 94/62/EC and should be maintained also under this Regulation. However, in order to amend or repeal them ~~as well as to determine, if appropriate, further exemptions from the concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components, or to amend lower~~ the concentration limit value for these metals in this Regulation in order to adapt it to technical and scientific progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. **On the basis of the Commission Communication “Chemicals Strategy for Sustainability Towards a Toxic-Free Environment”<sup>11</sup> the same limit value for hazardous substances is to, as a principle, apply for virgin and recycled material. However, there may be exceptional circumstances where a derogation to this principle may be necessary. In such cases – for instance, where the use of a different limit value for the recycled material compared to virgin materials is – should be justified based on a case by case analysis. ~~and there is a possibility to limit the use to clearly defined applications.~~ When amending the existing exemptions from the concentration levels of lead, cadmium, mercury and hexavalent chromium the Commission should take these principles under consideration.**
- (19) 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, with the exception of the restrictions on lead, cadmium, mercury and hexavalent chromium that were already established on the basis of Directive 94/62/EC and should continue to be addressed under this Regulation, given that such restrictions are addressed under other Union legislation. It should, however 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.
- (20) Designing packaging with the objective of its recycling, once it becomes packaging waste, is one the most efficient measures to improve the packaging circularity and 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 ~~to~~ on the internal market and 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 the Union level. In order to meet the objective set out in the CEAP that, by 2030, all packaging should be recyclable ~~or reusable~~, 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. However,

**Commented [ES3]:** PRES to improve the adjust to page 6 of the CSS Communication.

packaging should comply with these ~~sem~~ **criteria** only as of 1 January 2030 in order to give sufficient time to the economic operators to adapt.

- (20a) ~~In this Regulation the term “mMaterial recycling” is not intended to be the same as the as it is defined in this regulation is complementing the definitions of recycling and material recovery in the Directive 2008/98/EC, as defined in Directive 2008/98/EC. “Material recycling” should instead mean any recovery operation by which waste materials are reprocessed into materials or substances for the original or other purposes and does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations. As opposed to the definition of “recycling”, “material recycling” should not include biological treatment of waste. Whereas mMaterial recycling certainly maintains the resources in circulation within the material economy and should therefore not include biological treatment of waste, high quality recycling preserves the characteristics of materials, which make them most useful. The definition of material recycling does not affect the calculation of the recycling targets set for Member States under this Regulation. These targets and their calculation are based on the definition of “recycling” under as it is defined in the Directive 2008/98/EC.~~
- (20b) ~~One of the main objectives of this Regulation is fostering hHigh-quality recycling which implies that the recycled materials, based on their preserved technical characteristics, can be used for a certain end application typical for that material. are of equivalent or higher quality compared to the original material and can to be used as a substitute to primary raw materials for packaging. The recycled material can be recycled multiple times. Collection of properly sorted packaging waste is crucial. To enable the production of high quality secondary recycled raw materials, collection of properly sorted packaging waste is crucial. The difference between material recycling and high-quality recycling is that material 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 or as other packaging material.~~
- (21) As design for recycling assessment in itself does not ensure that packaging is recycled in practice, it is necessary to establish a uniform methodology and criteria for assessing the recyclability of packaging in practice based on ~~the state of the art~~ separate collection **and established** sorting and recycling processes **in actual systems proven in an operational environment, corresponding to Technology Readiness Level 9<sup>9</sup>** and infrastructure actually available in the Union. Related reporting from Member States and, where relevant, economic operators should support establishing the recyclability “at scale” thresholds and update, on this basis, the recyclability performance grades with respect to the specific packaging materials and categories.
- (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 materials and categories, as well as for the assessment of the packaging recyclability at scale including for categories of packaging not listed in this Regulation. In order to give economic operators and Member States sufficient time to collect and report the necessary data to establish the “at scale” recycling methodology, the

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<sup>9</sup> [h2020-wp1415-annex-g-tr1\\_en.pdf \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020wp1415-annex-g-tr1_en.pdf)



manufacturers should ensure that packaging is recycled at scale as of 2035. That should ensure that packaging complies with the design for recycling criteria, and is also recycled in practice on the basis of the state of the art processes for separate collection, sorting and recycling.

- (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 limited additional time of five years to comply with the recyclability requirements. The innovative features **and the planned establishment of a recycling path** should be explained in the technical documentation accompanying the packaging. **The economic operator should also notify to the competent authority before the 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 to immediate packaging as defined in Article 1 of Directive 2001/83/EC of the European Parliament and of the Council<sup>10</sup> and in Article 4(25) of Regulation (EU) 2019/6 of the European Parliament and of the Council<sup>11</sup>, which are in direct contact with the medicinal product, as well as contact sensitive plastic packaging of medical devices covered by Regulation (EU) 2017/745 of the European Parliament and of the Council<sup>12</sup> and of in vitro diagnostics medical devices covered by Regulation (EU) 2017/746 of the European Parliament and of the Council<sup>13</sup>. These exemptions should apply until 1 January 2035.
- (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

<sup>10</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>11</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>12</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>13</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).

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>14</sup> of different plastic packaging applications, and ensuring that the targets become binding by 2030. In order to incrementally ensure packaging circularity, increased targets should apply as of 2040.

- (27) It should be clarified, that paper material resulting from the wood pulping process is not considered to be included in the definition of plastic under point 43 of Article 3.
- (28) In order to ensure a high level of human and animal health protection in accordance with requirements in Union legislation and to avoid any risk to the security of supply and to the safety of medicines and medical devices safety, it is appropriate to provide for the exclusion from the obligation of a minimum recycled content in plastic packaging for 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, as well as for contact sensitive plastic packaging of medical devices covered by Regulation (EU) 2017/745 and for contact sensitive packaging of in vitro diagnostics medical devices covered by Regulation (EU) 2017/746. This exclusion should also apply to outer packaging of human and veterinary medicinal products 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 it has to comply with specific requirements to preserve the quality of the medicinal product.
- (29) In order to prevent barriers ~~to~~ on the internal market and ensure the efficient implementation of the obligations, economic operators should ensure that the plastic part ~~of~~ **in packaging, 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), manufacturing plant and ~~every 3 months year~~ each unit of packaging contains a certain minimum percentage of recycled content recovered from post-consumer plastic waste.**
- (29a) Using manufacturing plant as a basis for calculation means that a packaging manufacturer will have some flexibility in reaching the minimum percentage of recycled content.**

**Commented [E55]:** PRES : to address several MS comments and align with Batteries Regulation

<sup>14</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/EEC 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 1831/2003 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).

**Manufacturing plant refers to only 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. ~~The most appropriate means~~ **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 case** 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 per unit of post consumer plastic waste in packaging**, the share of recycled content **obtained from the recovered of the from** post-consumer plastic waste present, and establishing the format for technical documentation, the Commission should be empowered to adopt implementing provisions, in accordance with Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>15</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 per three calendar months. 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.**
- (32) **It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies.** Regarding plastic packaging except where made from polyethylene terephthalate (PET), it will be warranted, 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 this assessment, there might be 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 Treaty 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 Treaty 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.

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<sup>15</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).

- (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. 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.
- (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. **For tea, or coffee or other beverage bags and sticky labels attached to fruit and vegetables, this is also true for home composting.** Furthermore, where appropriate waste collection schemes and waste treatment infrastructures are available in a Member State, there should be a ~~limited~~ flexibility in deciding whether to ~~mandate~~ **allow** the use of compostable ~~packaging plastics 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 on its territory. In order to avoid consumer confusion about the correct disposal **route** and considering the environmental benefit of circularity of the carbon, all other ~~plastic~~ 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.
- (36a) **As described in the EU policy framework<sup>16</sup>, compliance with standards for industrial composting does not imply decomposition in home composting. In industrial composting, the required conditions are high temperatures (55°C-60°C) and high humidity levels. In home composting, 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, where the use of such plastics has a clear added value, 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 power to adopt acts in

<sup>16</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)

accordance with Article 290 of the Treaty should be delegated to the Commission to amend or extend the list of compostable packaging.

- (38) In order to facilitate conformity assessment with requirements on compostable packaging, it is necessary to provide for presumption of conformity for compostable packaging ~~which is in conformity in line~~ with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council<sup>17</sup>. ~~When doing so for the purpose of expressing~~ detailed technical specifications of those requirements ~~and take should be taken into account~~, in line with the latest scientific and technological developments. ~~The parameters, including composting times and admissible levels of contamination, which 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 composting of plastic packaging, EN-standardisation is under development.]~~
- (39) It should be recalled that all ~~compostable packaging constituting a food contact material is~~ **packaging in contact with food, including compostable packaging, has** to meet the requirements ~~set out in under the scope of~~ **set out in** Regulation (EC) No 1935/2004 **on materials and articles intended to be brought into contact with food or already in contact with food. Where appropriate, the documentation and information required according to the legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.**
- (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, **but only biodegradable compostable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. It is only specifically home-compostable packaging which is suitable for home-composting.** 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. 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.
- ~~(117a) For labelling of biobased plastic content, (The Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics (COM~~

Commented [ES9]: PRES to name legislation accurately

Commented [ES10]: PRES: minor change to address a MS comment to be more accurate

Commented [EOS11]: PRES deleted and replaced for recital 46b (WPE 15/09)

<sup>17</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).

~~2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, fully or partly, made from biomass biobased feedstock. The biomass currently originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by products, such as used cooking oil, bagasse and tall oil. Plastics can be fully or partially made from biobased feedstock. Biobased plastics can be both biodegradable and non-biodegradable.~~

- (119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type, amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.
- (121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission so that the latter to 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) 2018/89618 and 2005/270/EC19.
- (134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ~~the requirements~~ related to the ~~plastic 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. **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 before this date.**
- (134bis) 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 before this date.**

<sup>18</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>19</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).

Article 3

Definitions

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

- (1) ‘packaging’ means items of any materials that are intended to be used for the containment, protection, handling, delivery or presentation of products **between economic operators or from an economic operator to an end user** and that can be differentiated into packaging formats based on their function, material and design, including:
  - (a) items that are necessary to contain, support or preserve the product throughout its lifetime without being an integral part of the product which ~~is~~ **are** intended to be used, consumed or disposed of together with the product;
  - (b) components of, and ancillary elements to, an item referred to in point (a) that are integrated into the item;
  - (c) ancillary elements to an item referred to in point (a) that are hung directly on, or attached to, the product and that performs a packaging function without being an integral part of the product **and** which ~~is~~ **are** intended to be used, consumed or disposed of together with the product;
  - (d) ~~items designed and intended to be filled at the point of sale, provided that they perform a packaging function, also referred to as~~ **‘service packaging’ as defined in paragraph 1a**;
  - (e) disposable items sold, filled or designed and intended to be filled at the point of sale, provided that they perform a packaging function;
  - (f) tea, ~~or coffee~~ **or other beverage** bags ~~necessary to that~~ contain a tea, ~~or coffee~~ **or other** product, **and have a filter function** and ~~that~~ **are** intended to be used and disposed of together with the product;
  - (g) coffee, ~~or tea~~ **or other beverage** system single-serve unit ~~intended to be used for use in a dedicated machine to brew the beverage, and which is necessary to contain a coffee or tea product and intended to be used and disposed of together with the product;~~
- (1a) ‘service packaging’ means packaging designed and intended to be filled at the point of sale to dispense the product.**
- (2) ‘sales packaging’ means packaging conceived so as to constitute a sales unit consisting of products and packaging to the ~~final user end user or consumer~~ **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 whether the latter is sold as such to the end user or it serves only as a means to replenish the shelves at the point of sale or 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** ~~a number of~~ sales units or grouped packages, including e-commerce packaging but excluding road, rail, ship and air containers, in order to prevent **damage to the product from** physical handling and transport, ~~damage~~;

Commented [af12]: PRES To address MS concerns, service packaging is defined in a new paragraph (1a)

Commented [af13]: PRES new paragraph specifically for 'service packaging'



(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;

(17) ‘consumer’ means **any natural persons who are is** acting for purposes which are outside their trade, business or profession;

**Commented [ES14]:** PRES : minor change to address a MS comment to align with the definition in E Commerce Directive (Directive 2000/31/EC).

(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 this product further available on the market in the form supplied to it;

(31) ‘design for recycling’ means design of packaging, including individual components of packaging, **that ensures in order to ensure** its recyclability with **established state of the art** collection, sorting and recycling processes **in actual systems proven in an operational environment**;

**Commented [ES15]:** PRES for greater neutrality. A Delegation mentioned in case of not doing it, it might cause problems with compliance regulations (Annex VII).

**(31a) ‘recyclability’ means the fundamental and gradual suitability of any given packaging that is designed for recycling and leads to, after being recycled at scale, of sufficient quality compared to the original material to substitute primary raw material.**

(32) ‘~~packaging waste~~ recycled at scale’ means:  
**Packaging waste which is separately collected, sorted and recycled in installed infrastructure and established processes proven in an operational environment which ensure an amount of recycled material greater than [50] % of the mass of each packaging category, listed in table 1 Annex II, placed on the market by 2035 and 60% by 2040. 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)**  
~~(i) collected and sorted packaging waste which is collected, sorted and accepted for recycling in through installed state of the art infrastructure and established processes in actual systems proven in an operational environment, covering at least 75 % of the Union population of where the packaging is placed on the market. This includes such packaging waste exported from the Union which can be considered as meeting that meets the requirements of Article 47(512);~~

**Commented [ES16]:** PRES new definition not referring to population based on Delegations comments

~~The packaging waste shall be accepted for recycling by the Producer Responsibility Organisations, to be proven as recycled in installed infrastructure and established processes in an operational environment. In the case of individual compliance with extended producer responsibility obligations, producers shall accept the packaging waste for recycling;~~

~~The packaging placed on the market under condition it shall refer to average quantities over the last three years as reported according to Article 50(2);~~

~~(ii) For packaging formats, recycled through recycling technologies not reaching 75% as described under (i), collecting, sorting, and recycling is proven to work in practice and at scale for a maximum period of 10 years, when such sorting and recycling processes are available at the Technology Readiness Level 9 as defined by ISO 16290:2013. After the elapsing of such period, packaging is recycled at scale under the conditions outlined in point (i);~~



- (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 a recycling process by virtue of which recycled materials, based on preserved technical characteristics, are of equivalent quality to the original material and can be used as a substitute to primary raw materials for packaging or similar applications.
- (33) ‘packaging category’ means a combination of material and specific packaging design, which determines the recyclability with ~~the established state-of-the-art~~ collection, sorting and recycling processes in actual systems 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 is integral to the packaging unit and its functioning and does not need to be separated from the main packaging unit in order to consume the product 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 may be of a different material, that needs to be disassembled completely and permanently from the main packaging unit in order to access the product, and that is typically discarded prior to and separately from the packaging unit. Components are also considered separate in cases where they 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, design or production processes, resulting in a significant improvement in the functions of packaging, such as containment, protection, handling, delivery or presentation of products, and in demonstrable environmental benefits, with the exception of packaging that is the result of modification of existing packaging for the sole purpose of improved presentation of products and marketing;
- (38) ‘secondary raw materials’ means materials that have been obtained through recycling processes and can substitute primary raw materials;
- (39) ‘post-consumer plastic waste’ means plastic waste that is generated from plastic products that have been placed on the market;
- (40) ‘contact sensitive packaging’ means packaging that is intended to be **applied to products used in any packaging applications** 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, or Directive 2008/68/EC;

**Commented [ES17]:** PRES to address Delegations comments so as not to restrict the use of secondary raw materials only to packaging as there are other applications of equal value or quality.

**Commented [af18]:** PRES: To address MS comments. Assuming these components appear separately in sorting, therefore it is logical to consider them equal to separate components when determining recyclability.

**Commented [ES19]:** PRES for coherence

- (41) ‘compostable packaging’ means packaging **that biodegrades or is capable of undergoing in industrially controlled conditions**, capable of undergoing physical, chemical, thermal or biological decomposition **in industrially controlled conditions**, **including anaerobic digestion, resulting ultimately in conversion such that most of the finished compost ultimately decomposes** into carbon dioxide or methane, in the absence of oxygen, methane, mineral salts, biomass and water, according to Article 47(48), and does not hinder or jeopardise the separate collection and the composting ~~or and anaerobic digestion~~ process or activity into which it is introduced in industrially controlled conditions **in bio-waste treatment facilities**;
- (41a) ‘home compostable packaging’ means packaging that can biodegrade in non-controlled conditions compared ~~to~~ industrial scale composting facilities and the composting process of which is performed by private individuals or communities with the aim of producing compost for their own use.
- (41ab) ‘biobased plastics’ means plastics that are made, fully or partly, from biological resources regardless of whether they are biodegradable or not.
- (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(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;
- (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;

The definitions of ‘substances of concern’ and ‘data carrier’ laid down in article [2 points (28) and (30)] of Regulation [Ecodesign for sustainable products] shall apply;

Commented [af20]: PRES Editorial change with no meaning change

Commented [ES21]: PRES: to address MS comments regarding home-composting can also be collective between two or more households

## 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, ~~to be placed on the market.~~

~~1a. Recyclability requirements established in delegated acts adopted pursuant to Article 6(4) shall, as appropriate:~~

~~(a) address substances of concern that negatively affect the re-use and recycling of materials in the packaging in which they are present, and~~

~~(b) identify the specific substances concerned and their associated criteria and limitations.~~

~~They shall not restrict the presence of substances in packaging or packaging components for reasons relating primarily to chemical safety.~~

1b. 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.

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 consider the appropriate follow-up measures, including

a) b) For substances of concern in packaging materials which primarily affect human health or 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) a) the establishment of restrictions on 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),

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.

1c. Member States may ask, based on the evidence from competent authorities appointed in accordance with Regulation (EC) No 1907/2006 or Regulation (EC) No. 1935/2004, request the Commission to assess the impact of consider restricting the use of substances of concern that potentially negatively affect the re-use and recycling of materials in the packaging, for reasons other than primarily their chemical safety, in which they are present. 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 primarily those related to chemical safety. The

**Commented [ES22]:** PRES move up from b) to a) and rewording to align with other Regulations (EPRS) as raised in the WPE 14th July.

**Commented [ES23]:** PRES editorial change to align the wording with a).

**Commission shall evaluate the request and present the results of this evaluation shall to the Committee referred to in Article 59 of this Regulation.**

Commented [ES24]: PRES for greater clarity

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 ~~packaging 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.
3. Compliance with the requirements set out in paragraph 2 shall be demonstrated in the technical documentation drawn up in accordance with Annex VII.
4. ~~Recyclability requirements established in delegated acts adopted pursuant to Article 6(5) shall not restrict the presence of substances in packaging or packaging components for reasons relating primarily to chemical safety. They shall address, as appropriate, substances of concern that negatively affect the re-use and recycling of materials in the packaging in which they are present, and shall, as appropriate, identify the specific substances concerned and their associated criteria and limitations.~~
5. In order to take account of the scientific and technical progress, the Commission may adopt delegated acts in accordance with Article 58, to amend this Regulation in order to:
  - (a) 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;
- 5a. **In order to take account of the scientific and technical progress, the Commission may adopt delegated acts in accordance with Article 58, to supplement this Regulation in order to**
  - (b) determine the conditions under which the concentration level referred to in paragraph 2 shall not apply to recycled materials and 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 Decision 2001/171/EC and Commission Decision 2009/292/EC.**
- 5b. **By [OP: Please insert the date = 8 years after 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 ~~to be placed on the market~~.

2. Packaging shall be considered recyclable when ~~it fulfils~~ ~~complies with~~ the following conditions:

- (a) it is designed for material recycling, in accordance with paragraph ~~3~~ **4 (a)**;
- (b) ~~when it becomes waste, it can be recycled at scale, on the basis of the methodology set out in accordance with paragraph 6, including that and~~ it can be effectively and efficiently separately collected in accordance with Article 43(1) ~~and, (2) and (5)~~; and
- (~~e~~) ~~it can be~~ is sorted into defined waste streams without affecting the recyclability of other waste streams; and
- (~~d~~) ~~when it becomes waste,~~ it can be recycled so that the resulting secondary raw materials are of sufficient quality ~~compared to the original material and can be used~~ to substitute the primary raw materials, ~~for packaging application~~;
- (~~ec~~) ~~it can be recycled at scale.~~ **when it becomes waste, it can be recycled at scale, on the basis of the methodology set out in accordance with paragraph 6.**

**2a** ~~Points (a) and (db) in paragraph 2 shall apply from 1 January 2030, and pPoint (cbe) in paragraph 2 shall apply from 1 January 2035. Where such packaging complies with the delegated acts adopted pursuant to paragraphs 4 and 6, it shall be considered to comply with the respective conditions set in paragraph 2.~~

3. ~~Recyclable packaging shall, from 1 January 2030, comply with the design for recycling criteria as laid down in the acts adopted pursuant to paragraph 4 and, from 1 January 2035, also with the recyclability at scale requirements laid down in the delegated acts adopted pursuant to paragraph 6. Where such packaging complies with those delegated acts, it shall be considered to comply with the conditions set in paragraph 2, points (a) and (e). Packaging recyclability shall be expressed in the performance grades A, B or C described in table 2 of Annex II following an assessment based on the delegated acts pursuant paragraphs 4 and 6. No later than From 1 January 2030, packaging shall not be placed on the market if it is not within grades A, B or C without prejudice to paragraph 9.~~

**3a** The criteria and requirements laid down in the delegated acts adopted respectively pursuant to paragraph 4 and paragraph 6 shall establish:

- b(a)** ~~detailed design for recycling criteria for each packaging category listed in Table 1 of Annex II;~~
- (ab)** the manner in which to express the result of the recyclability assessment in recyclability performance grades from A to ~~CE~~, as described in Table 2 of Annex II, based on the percentage of the packaging unit, in weight, including material specific criteria and sorting efficiency ~~and the manner in which each points (a), (b), and (c) in paragraph (2) contributes to the recyclability performance grades,~~ to define whether a packaging is recyclable according to paragraph 1;
- (b)** ~~detailed design for recycling criteria for each packaging category listed in Table 1 of Annex II;~~
- (c) a description, for each packaging category listed in Table 1 of Annex II, of the conditions for compliance with the respective performance grades;

**Commented [ES25]:** PRES to update the reference due to changes addressed

**Commented [ES26]:** PRES move to c)

**Commented [ES27]:** PRES to address Delegations comments to delete the direct link here to the resulting secondary raw materials to substitute the primary raw materials only of packaging but maintain it in Article 6(4a) to be taken into account.

**Commented [ES28]:** PRES moved from b

**Commented [ES29]:** PRES for greater clarity introduce the Recyclability performance grades that has been reduced, from 5 grades (A to E) to 3 grades (A to C) to simplify. Former Article 6(5) has been deleted and move here reworded. No later than 1 January 2030, packaging shall not be placed on the market if it is not within grades A, B or C. The Presidency considers that there is no need to define a grade only to restrict the placement on the market (former paragraph 5), as it is stated that only the three defined grades can be placed on it, within the temporary exemption of innovative packaging as referred to in paragraph 9.

**Commented [ES30]:** PRES resulting text after merging the last sentence of 6(2) with the first sentences of paragraph 3, all referring to fulfilment dates, for greater clarity.

**Commented [ES31]:** PRES move up from former b for greater clarity.

**Commented [ES32]:** PRES to introduce some flexibility.

**Commented [EOS33]:** PRES move up to a)

- (d) the modulation of the financial contributions to be paid by producers to comply with their extended producer responsibility obligations as referred to in Article 40, based on the packaging performance grade;
- (e) the manner in which to assess the recyclability at scale for each packaging category listed in Table 1 of Annex II in order to establish, as of 2035, updated recyclability performance grades.
- f) the materials, such as ceramic and textile, that are exempted from the recycled at scale requirement as well as exception for certain packaging categories listed in table 1 Annex II for which installed infrastructure capacities for sorting and recycling are located in one or a few Member States.

Commented [EOS34]: PRES for giving more flexibility as Delegations request

4. By 1 January 2028 ~~the Commission is empowered to~~**shall** adopt delegated acts in accordance with Article 58 to supplement this Regulation in order to establish:

Commented [EOS35]: PRES editorial change

- (a) design for recycling criteria and recycling performance grades based on the ~~criteria and parameters listed in Table 22a of Annex II for packaging categories as indicatively listed in Table 1 of that Annex.~~ The Commission shall be 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. Such recycling criteria and performance grade, and that will shall 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 the primary raw materials for packaging., as well as

Commented [ES36]: PRES for giving COM the flexibility if it is needed.

Commented [EOS37]: PRES editorial change

Design for recycling criteria shall:

- i) consider established collection, sorting and recycling processes ~~in actual systems proven in an operational environment and shall cover all packaging components, and~~
  - ii) as appropriate, identify ~~address~~ substances of concern that negatively affect the re-use and recycling of materials in the packaging in which they are present, and ~~shall identify the specific substances concerned and their associated criteria and limitations.~~
  - iii) as appropriate, establish restrictions of the presence of such substances, or groups of such substances, in packaging or packaging components for reasons not relating primarily to chemical safety;
- (b) ~~rules~~ a rules 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 ~~set out in Table 2, Annex II. and for plastic packaging, the percentage of recycled content may be used as a parameter in the calculations.~~

Commented [ES38]: PRES editorial change

~~Design for recycling criteria shall consider state of the art collection, sorting and recycling processes and shall cover all packaging components.~~

When adopting the delegated act referred to in the first subparagraph, the Commission shall take into account the results of their assessment, if any, carried out pursuant to Article (5)(1c).

4a. 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 scientific and technical development in material and product design, and collection, sorting and recycling infrastructure.

**In particular, 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.**

**Economic operators shall comply with the new or updated design for recycling criteria within three years from their entry into force.**

5. ~~No later than~~From 1 January 2030, packaging shall not be placed on the market considered recyclable if it corresponds to performance grade E under the design for recycling criteria established in the delegated act adopted pursuant to paragraph 4 for the packaging category, to which the packaging belongs.

These criteria shall be based at least on the parameters as listed in Table 2a3 of Annex II.

6. By 1 January 2032 ~~the~~ Commission shall adopt a delegated act, in accordance with article 58, for each packaging type category listed in Table 1 of Annex II, establishing the methodology to assess if packaging is recyclable at scale. That methodology shall be based at least on the following elements:

- (a) amounts of packaging placed on the market in the Union as a whole and in each Member State;
- (b) amounts of separately collected packaging waste, per packaging material listed in Table 1 of Annex II, in the Union as whole and in each Member State;
- (c) amounts of recycleding rates of packaging waste per packaging type category listed in Table 1 of Annex II, in the Union as a whole and in each Member State ~~or when such data on recycling rates for packaging waste per packaging type cannot be made available, assumptions made based on average loss rates as referred to in Article 47(3);~~
- ~~(d) installed infrastructure capacities for sorting and recycling in the Union as a whole for each packaging type listed in Table 1 of Annex II.~~

6a 18 months after the entry into force of the delegated acts in accordance with paragraph 4 and 6 of this Article, in order to increase the level of recyclability of packaging ~~and the level of recycled content of plastic 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 ~~based, at least, on the recyclability performance grades regarding recyclability and on the percentage of recycled content, as determined~~ based, at least, on the recyclability performance grades ~~and on the percentage of recycled content, as determined~~ detailed in accordance with the delegated acts referred to in paragraphs 4 and 6 of this Article.

~~7. The criteria and requirements referred to in paragraph 3 shall establish:~~

- ~~(a) the manner in which to express the result of the recyclability assessment in recyclability performance grades from A to E, as described in Table 23 of Annex II, based on the percentage of the packaging unit, in weight, including e.g. material specific criteria and sorting efficiency to define whether a packaging is recyclable according to paragraph 1;~~

**Commented [ES39]:** PRES to clarify how COM will address the innovative nature of packaging

**Commented [ES40]:** PRES to address a deadline for the compliance when changes in recycling for criteria were carried out.

**Commented [ES41]:** PRES deleted and move up to paragraph 3 with a new wording due to the simplification addressed in the number of performance grades and so on.

**Commented [ES42]:** PRES for coherence with the rest of the text

**Commented [ES43]:** PRES for coherence with the info need due to the new definition of recycled at scale proposed in Art 3(32).

**Commented [ES44]:** PRES due to the new definition of recycled at scale (Art 3.(32)) this info is not needed.

**Commented [ES45]:** PRES for greater clarity



- (b) detailed design for recycling criteria for each packaging material and category listed in Table 1 of Annex II;
- (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) the modulation of the financial contributions to be paid by producers to comply with their extended producer responsibility obligations as referred to in Article 40, based on the packaging performance grade;
- (e) the manner in which to assess the recyclability at scale for each packaging category listed in Table 1 of Annex II in order to establish, as of 2035, updated recyclability performance grades.

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.

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 done separately for each separate component.

**The assessment shall also be done separately for integrated components that separate from each other through mechanical stress during transportation or sorting.**

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

9. From 1 January 2030, ~~and by way of derogation from paragraphs 2 and 3~~, innovative packaging **that does not comply with the requirements under paragraph 2(b)** may be placed on the market for a maximum period of 35 years after the end of the calendar year when it **was first** ~~was~~ has been placed on the market.

Where use is made of this derogation, **the economic operator shall notify the competent authority at the same time as placing before the innovative packaging is placed on the market and include all technical details showing compliance with definition under Article 3(37) of this Regulation.** This notification shall include a timeline for the collection and recycling of the innovative packaging. The information shall be made available to the national authorities carrying out market surveillance, on request.

~~The innovative packaging shall be accompanied by technical documentation, referred to in Annex VII, demonstrating its innovative nature and showing compliance with the definition in Article 3(37) of this Regulation.~~

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

**If the competent authority considers that packaging is innovative, it shall inform the Commission thereof, which shall act in accordance with paragraph 4a (of this Article).**

Commented [ES46]: PRES for clarification

Commented [ES47]: PRES for coherence

Commented [ES48]: PRES editorial change

Commented [ES49]: PRES for coherence

Commented [ES50]: PRES reorder, move up from above .

Commented [ES51]: PRES move up

Commented [ES52]: PRE for greater clarity



After the period referred to in the first sub-paragraph, such packaging shall be accompanied by the technical documentation referred to in paragraph 8.

10. ~~Until 31 December 2034~~ 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 plastic packaging of medical devices covered by Regulation (EU) 2017/745;
  - (c) contact sensitive plastic packaging of in vitro diagnostics medical devices 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.**
  - (cb) **packaging used for transportation of dangerous goods as set by Directive 2008/68/EC.**

**Commented [ES53]:** PRES to address Delegations comments asking for a review date instead of a sunset date

**Commented [ES54]:** PRES: editorial change to address MS comment for using this terminology

**10a By 1 January 2035 the Commission shall undertake a review to establish whether the continuation of this exemption under paragraph 10 is warranted.**

**Commented [EOS55]:** PRES to address Delegations comments asking for a review date instead of a sunset date

- ~~11. The financial contributions to be paid by producers to comply with their extended producer responsibility obligations as referred to in Article 40 shall be modulated on the basis of the recyclability performance grade, as determined in accordance with the delegated acts referred to in paragraphs 4 and 6 of this Article and, as regards plastic packaging, also in accordance with the Article 7(6).~~

*Article 7*

*Minimum recycled content in plastic packaging*

1. ~~By From 1 January 2030,~~ the plastic part, in 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 Annex II, Table 1, manufacturing plant and ~~year over a period of three months~~ year unit of packaging:
- (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 packaging other than those referred to in points (a), (b) and (c).
2. ~~By From 1 January 2040,~~ the plastic part in ~~the~~ packaging placed on the market shall contain the following minimum percentage of recycled content recovered from post-consumer plastic

**Commented [af56]:** PRES proposes in general the use of "by". Time-limits end at midnight on the date indicated.

**Commented [af57]:** PRES: Align with batteries: 'from battery manufacturing waste or post-consumer waste, and the percentage share of lead that is present in the battery and that has been recovered from waste, for each battery model per year and per manufacturing plant' and address MS comments.

**Commented [af58]:** PRES proposes in general the use of "by". Time-limits end at midnight on the date indicated.

waste, per **packaging type and format as referred to in Annex II, Table 1, manufacturing plant and over a period of three months year unit of packaging**;

- (a) 50 % for contact sensitive plastic packaging, except single use plastic beverage bottles;
- (b) 65 % for single use plastic beverage bottles;
- (c) 65 % for plastic packaging other than those referred to in points (a) and (b).;

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 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) ~~4. Paragraphs 1 and 2 shall not apply to~~ compostable plastic packaging;

**(ea) packaging used for the transportation of dangerous goods as set by Directive 2008/68/EC.**

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

6. ~~By 1 January 2030, the financial contributions paid by producers to comply with their extended producer responsibility obligations as laid down in Article 40 shall be modulated based on the percentage of recycled content used in the packaging.~~

7. ~~By 31 December 2026, the Commission is empowered to adopt implementing acts establishing the methodology for the calculation and verification of the percentage of recycled content referred to in paragraph 1 and 2 of this Article, recovered from post-consumer plastic waste, per unit of plastic packaging, per packaging type and format as referred to in Annex II, Table 1, manufacturing plant and three months year, and the format for the technical documentation referred to in Annex VII. In advance of the adoption of these **When adopting the implementing acts, the Commission will examine shall assess, in view of the available recycling technologies, their economic and environmental performance, including the quality of the output, the availability of the incoming waste, the energy need and greenhouse gas emissions. On the basis of such assessment, the Commission may include sustainability criteria for the recycling technologies in the methodology established in the implementing act under the previous subparagraph. Based on this examination, the Commission might integrate sustainability criteria for the different recycling technologies into the methodology mentioned above.** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).~~

**Commented [E559]:** PRES to address several MS comments and alignments with Batteries Regulation

**Commented [E560]:** PRES: editorial change to address a MS comment for improving the term used

**Commented [af61]:** PRES About the renumbering, it will be done at the very end by the lawyer-linguists.

**Commented [EO562]:** PRES: proposed of editorial changes for redrafting without any change

8. ~~As of~~ **By** 1 January 2029, 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 this assessment, 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, as appropriate;
- (b) ~~revise change-amend the list content of the~~ derogations established in paragraph 3, 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 as concerns concerning contact sensitive materials and articles like food packaging.**

Commented [EOS63]: PRES editorial change

10. Where justified by the lack of availability or excessive prices of specific recycled plastics that may 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.

**Commission shall adopt the delegated act only in exceptional cases when ~~The empowerment is restricted to very limited cases in which severe adverse effects would may occur on human or animal health, or the security of food supply or to the environment. one or more of the mentioned objects of protection.~~**

Commented [EOS64]: PRES : redrafting without changes

11. By [*OP: Please insert the date = 8 years after 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.

- 11a. ~~By~~ [*OP: Please insert the date = 8 years after 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 and its environmental performance. Based on this assessment, the Commission is empowered to adopt delegated acts in accordance with Article 58 to amend paragraphs 1 and 2, setting out targets to increase the use of biobased plastic in packaging through a hierarchical approach, where recycled content should be the first choice and biobased plastic the second choice.**

Commented [af65]: PRES To address the delegations concerns about biobased plastics present challenges in the assessment methodology of their environmental performance.

Article 8

Compostable packaging

1. By [OP: please insert the date = 24 months from the entry into force of this Regulation], **by way of derogation from Article 6(1)**, packaging placed on the market referred to in Article 3(1), points (f) ~~and (g)~~ and sticky labels attached to fruit and vegetables ~~and very lightweight plastic carrier bags~~ shall be **home compostable in industrially controlled conditions in bio-waste treatment facilities, to be placed on the market or compostable in industrially controlled conditions in bio-waste treatment facilities, and therefore allowed to be collected in bio-waste receptacles.**
2. Where appropriate waste collection schemes and waste treatment infrastructure are available to ensure that packaging referred to in paragraph 1 enters the organic waste management stream, **and by way of derogation from Article 6(1)**, Member States are empowered to require that **packaging placed on the market referred to in Article 3(1), point (g), if composed of other than metal packaging material, very lightweight plastic carrier bags and** lightweight plastic carrier bags shall be made available on their market for the first time only if ~~it can be demonstrated that those they are compostable~~ **lightweight plastic carrier bags have been entirely manufactured from biodegradable plastic polymers, which are compostable in industrially controlled conditions.**
3. By [OP: Please insert the date = 24 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 shall be empowered to adopt delegated acts in accordance with Article 58 to amend paragraphs ~~1 and 2~~ of this Article by adding other types of packaging to the types of packaging covered by ~~that~~ **these** paragraphs when it is justified and appropriate due to technological and regulatory developments impacting the disposal of compostable packaging and under the conditions set out in Annex III.
- 5a. **12 months after 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 and home compostable packaging in this Article. When doing so, the Commission ~~should~~ 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**

**Commented [af66]:** PRES: to address MS concerns about homecompostable in point f), take into consideration also industrial composting.

home composts and in bio-waste treatment facilities, including anaerobic digestion processes, are taken into account. The Commission shall request that those standards shall also 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.

Commented [E0567]: PRES editorial changes

## ANNEX I

### AN 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 pots intended to be used only for the selling and transporting of plants and not intended to stay with the plant throughout its life time

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)

~~Beverage system capsules (e.g. coffee, cacao, milk)~~

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

Tea and coffee foil pouches

#### **Non-packaging**

Flower pots intended to stay with the plant throughout its life time

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

**Ice-cream stick**

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

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

Commented [af68]: PRES: To address MS comments.

***Packaging***

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

**Part of packaging**

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) tag

***Items covered by Article 3 (1)(f)-(g)***

**Packaging**

**Tea and coffee foil pouches**

**Tea bags**

**Beverage system capsules (e.g. coffee, cacao, milk)**

## ANNEX II

CATEGORIES AND PARAMETERS FOR ASSESSMENT OF RECYCLABILITY OF  
PACKAGING**Table 1:** Indicative list of packaging materials, types and categories referred to in Article  
6

<u>Cat. No (new)</u>	<u>Predominant packaging material</u>	<u>Packaging type</u>	<u>Format (illustrative)</u>	<u>Colour</u>
<u>1</u>	<u>Glass</u>	<u>Glass and composite packaging, of which the majority is glass</u>	<u>Bottles, jars, flacons, cosmetics pots, tubs etc. made of glass (soda lime silica)</u>	=
<u>2</u>	<u>Paper/cardboard</u>	<u>Paper/cardboard packaging</u>	<u>Boxes, trays, grouped packaging, flexible paper packaging (e.g. films, sheets, pouches, lidding, cones, wrappers)</u>	=
<u>3</u>	<u>Paper/cardboard</u>	<u>Composite packaging of which the majority is paper/cardboard</u>	<u>Beverage cartons, paper cups and boxes made of liquid paperboards 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, etc.</u>	=

**Commented [ES69]:** PRES ES Table 1 has been replaced with the preliminary results of the study carried out by the JRC about Technical recommendations on packaging categories to support the design for recycling assessment of the Packaging and Packaging Waste Regulation Proposal and which reduce categories.



<u>4</u>	<u>Metal</u>	<u>Steel and composite packaging of which the majority is steel</u>	<u>Rigid packaging formats (aerosols, cans, paint tins, boxes, trays, drums, tubes etc.) made of steel, including tinplate and stainless steel</u>	=
<u>5</u>	<u>Metal</u>	<u>Aluminium and composite packaging of which the majority is Aluminium</u>	<u>Rigid formats (food and beverage cans, bottles, aerosols, drums, tubes, cans, boxes, trays) made of Aluminium</u>	=
<u>6</u>	<u>Metal</u>	<u>Aluminium and composite packaging of which the majority is Aluminium</u>	<u>Semi rigid or flexible formats (containers and trays, tubes, foils, flexible aluminium foil) made of Aluminium</u>	=
<u>7</u>	<u>Plastic</u>	<u>PET - rigid</u>	<u>Bottles and Flasks</u>	<u>Transparent clear / light blue, transparent other colours</u>
<u>8</u>	<u>Plastic</u>	<u>PET - rigid</u>	<u>Rigid packaging other than bottles and flasks (Includes pots, tubs and mono- and multilayer trays)</u>	<u>Transparent</u>
<u>9</u>	<u>Plastic</u>	<u>PET - flexible</u>	<u>Films</u>	=
<u>10</u>	<u>Plastic</u>	<u>PE - rigid</u>	<u>Containers, bottles and tubes</u>	<u>Natural / white, coloured</u>
<u>11</u>	<u>Plastic</u>	<u>PE - flexible</u>	<u>Films incl. multilayer and multi-material packaging</u>	<u>Natural / clear, coloured</u>
<u>12</u>	<u>Plastic</u>	<u>PP - rigid</u>	<u>Containers, bottles and tubes</u>	<u>Natural / clear, coloured</u>

<u>13</u>	<u>Plastic</u>	<u>PP - flexible</u>	<u>Films incl. multilayer and multi-material packaging</u>	<u>Natural / clear, coloured</u>
<u>14</u>	<u>Plastic</u>	<u>HDPE and PP - rigid</u>	<u>Crates and pallets, corrugated board plastic</u>	=
<u>15</u>	<u>Plastic</u>	<u>PS - rigid</u>	<u>Rigid packaging (except EPS and XPS)</u>	=
<u>16</u>	<u>Plastic</u>	<u>EPS - rigid</u>	<u>Fish boxes/ white goods, trays</u>	
<u>17</u>	<u>Plastic</u>	<u>XPS - rigid</u>		=
<u>18</u>	<u>Plastic</u>	<u>Other rigid plastics including, e.g. PVC, PC – rigid, and biodegradable plastics – rigid (e.g. PLA, PHB)<sup>[1]</sup></u>	<u>Rigid, incl. industrial packaging (e.g. IBCs, drums)</u>	=
<u>19</u>	<u>Plastic</u>	<u>Other flexible plastics including multilayer plastic films and multi-material materials – flexible, and biodegradable plastics – flexible (e.g. EVOH, PLA films)<sup>[2]</sup></u>	<u>Pouches, thermoformed packages, vacuum packaging, modified atmosphere/modified humidity packaging incl. industrial packaging (FIBCs, bags, stretch film)</u>	=
<u>20</u>	<u>Wood, cork</u>	<u>Wooden packaging, including cork</u>	<u>Pallets, boxes, wine crates</u>	=
<u>21</u>	<u>Textile</u>	<u>Natural and synthetic textile fibres</u>	<u>Bags</u>	=
<u>22</u>	<u>Ceramics or porcelain stoneware</u>	<u>Clay, stone</u>	<u>Pots, containers, bottles</u>	=

[1] Bio-degradable plastic (rigid) could alternatively be placed in a new stand-alone category.

[2] Bio-degradable plastic (flexible) could alternatively be placed in a new stand-alone category.

<u>Category No</u>	<u>Predominant packaging material</u>	<u>Packaging type</u>	<u>Format (illustrative)</u>	<u>Colour</u>
1	Glass	Glass	Bottles, jars, flacons, cosmetic s, pots, tubs etc. made of glass (soda lime silica)	
2	Glass	Composite packaging of which the majority is glass	Bottles, jars, flacons, cosmetic s, pots, tubs, aerosol bottles	
3	Paper/cor dboard	Paper/cor dboard packaging	Boxes, trays, grouped packaging	
4	Paper/cor dboard	Composite packaging of which the majority is paper/cor	Includin g beverage cartons, plates and cups, i.e. metallise d or plastic laminate d paper/ card, liquid	

		<u>board</u>	<u>paperboard</u> <u>paper/cardboard</u> <u>with plastic liners/windows</u>	
<u>5</u>	<u>Metal</u>	<u>Steel</u>	<u>Rigid packaging formats (aerosols cans, cans, paint tins, boxes, etc.) made of steel, including tinplate</u>	
<u>6</u>	<u>Metal</u>	<u>Composite packaging of which the</u>	<u>Drums, tubes, cans, boxes, trays, etc.</u>	

		<u>majority is steel</u>		
<u>7</u>	<u>Metal</u>	<u>Aluminium</u>	<u>Rigid formats (food and beverage cans, bottles, aerosols, bottles)</u>	
<u>8</u>	<u>Metal</u>	<u>Aluminium</u>	<u>Semi rigid or flexible formats (containers and trays, tubes, foil)</u>	
<u>9</u>	<u>Metal</u>	<u>Composite packaging of which the majority is Aluminium</u>	<u>Drums, tubes, cans, boxes, trays, etc.</u>	
<u>10</u>	<u>Plastic</u>	<u>PET rigid</u>	<u>Bottles, trays, and flasks</u>	<u>Transparent clear/light blue</u>
<u>11</u>	<u>Plastic</u>	<u>PET rigid</u>	<u>Bottles, trays, and flasks</u>	<u>Transparent other colours</u>
<u>12</u>	<u>Plastic</u>	<u>PET rigid</u>	<u>Rigid packaging other than bottles and flasks (Includes</u>	<u>Transparent</u>

			<del>pots, tubs and trays, aerosol bottles)</del>	
<del>13</del>	<del>Plastic</del>	<del>PET flexible</del>	<del>Films</del>	
<del>14</del>	<del>Plastic</del>	<del>HDPE rigid</del>	<del>Containe rs bottles, and Ttubes</del>	<del>natural /clear</del>
<del>15</del>	<del>Plastic</del>	<del>HDPE rigid</del>	<del>Containe rs bottles, and Ttubes</del>	<del>coloured</del>
<del>16</del>	<del>Plastic</del>	<del>PE flexible</del>	<del>Films</del>	<del>natural /clear</del>
<del>17</del>	<del>Plastic</del>	<del>PE flexible</del>	<del>Films</del>	<del>coloured</del>
<del>18</del>	<del>Plastic</del>	<del>PP rigid</del>	<del>Containe rs Tubes and</del>	<del>natural /clear</del>
<del>19</del>	<del>Plastic</del>	<del>PP rigid</del>	<del>Containe rs Tubes and</del>	<del>coloured</del>
<del>20</del>	<del>Plastic</del>	<del>PP flexible</del>	<del>Films</del>	<del>natural /clear</del>
<del>21</del>	<del>Plastic</del>	<del>PP flexible</del>	<del>Films</del>	<del>coloured</del>

<u>22</u>	<u>Plastic</u>	<u>HDPE</u> <u>and PP</u> <u>rigid</u>	<u>crates</u> <u>and</u> <u>pallets</u>	
<u>23</u>	<u>Plastic</u>	<u>PS</u> <u>rigid</u>	<u>Rigid</u> <u>packagin</u> <u>e (except</u> <u>EPS and</u> <u>XPS)</u>	
<u>24</u>	<u>Plastic</u>	<u>EPS</u> <u>rigid</u>	<u>Fish</u> <u>boxes/</u> <u>white</u> <u>goods</u>  <u>Packagi</u> <u>ng for</u> <u>large</u> <u>househo</u> <u>ld</u> <u>appliane</u> <u>es listed</u> <u>in point</u> <u>1 of</u> <u>Annex</u> <u>H to</u> <u>Directiv</u> <u>e</u> <u>2012/19/</u> <u>EU</u>	
<u>25</u>	<u>Plastic</u>	<u>XPS</u> <u>rigid</u>		
<u>26</u>	<u>Plastic</u>	<u>Other</u> <u>plastics</u> <u>including</u> <u>PC</u> <u>rigid</u>	<u>rigid</u>  <u>PVC,</u>  <u>Rigid</u>	

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<u>27</u>	<u>Plastic</u>	<u>Other flexible plastics including multilayer plastic films and multi material materials flexible</u>	<u>Pouches</u>	
<u>27a</u>	<u>Plastic</u>	<u>Compostable</u>		
<u>28</u>	<u>Wood, cork</u>	<u>Wooden packaging including cork</u>	<u>Pallets, boxes</u>	
<u>29</u>	<u>Textile</u>	<u>Natural and synthetic textile fibres</u>	<u>Bags</u>	
<u>30</u>	<u>Ceramics or porcelain stoneware</u>	<u>Clay, stone</u>	<u>Pots, containers, bottles</u>	



**Table 2: Recyclability performance grades**

**Commented [ES70]:** PRES Table 2 as been updated with 3 grades (A, B ,C) to simplify and redefined the thresholds according to this. Based on Delegations comments the column with the description has been deleted due to incoherences and because it was very focus on only some categories of packaging.

<b>Recyclability Performance Grade</b>	<b>Assessment of recyclability per unit, in terms of weighting</b>	<b>Description</b>
<b>Grade A</b>	higher or equal to 95 %	<del><b><u>This packaging is fully compatible with the design for recycling criteria. The generated secondary raw materials can be used in the same quality applications. Equals to high quality recycling.</u></b></del>
<b>Grade B</b>	higher or equal to <b>85</b> 90-%	<del><b><u>The packaging has some minor recyclability issues that slightly affect the quality of the generated secondary raw material. However, the majority of the generated secondary raw material from this packaging can still still be used in packaging applications. Equals to high quality recycling.</u></b></del>
<b>Grade C</b>	higher or equal to <b>70</b> 80-%	<del><b><u>The packaging presents some recyclability issues that may affect the quality of the generated secondary raw materials and may lead to material losses during recycling.</u></b></del>
<del><b>Grade D</b></del>	<del><u>higher or equal to 70 %</u></del>	<del><b><u>The packaging has significant design issues that highly affect its recyclability or imply large material losses during recycling.</u></b></del>
<del><b>Grade E</b></del>	<del><u>lower than 70 %</u></del>	<del><b><u>The package is not recyclable because of design issues and should not be placed on the market.</u></b></del>

**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 parameters outlined in Table 2a shall be considered, at least, when defining design for recycling criteria for the listed in Table 2.~~ 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,~~and~~
- 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	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. The material of which the sleeve is made of can affect both the sortability and the recyclability of the packaging.
Closures	Closures refer to components used to close or seal the

<p><b>and other small packaging components</b></p>	<p>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 <del>and reduce the efficiency of the sorting and subsequent recycling processes.</del></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>
<p><b>Adhesives</b></p>	<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>
<p><b>Colours</b></p>	<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>
<p><b>Material composition</b></p>	<p><b>The material of the packaging greatly influences sortability and existence of high-quality recycling processes</b></p> <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 laquers / 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</p>

**Commented [ES71]:** PRES to address Delgation comment regarding the part of the sentence suggested to be delete contradicts itself with the sentence “Components that are firmly attached to each other can affect the sortability and the recyclability of the packaging,” which is in the last row of the table. Closures are components.

**Commented [ES72]:** PRES to address Delegation comment regarding the main material used in a packaging unit greatly influences the recyclability. If there is no positive sorting for this material in sorting facilities, it generally does not reach a high-quality recycling process. The current description of the relevance mainly focusses on material combinations / multi-layer but this is not the only aspect

	<p><b>packaging for the purpose of batch coding and other information and branding.</b></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>
<b>Product residues / ease of emptying</b>	<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>
<b>Ease of dismantling</b>	<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>

<b>Parameters for setting Design for Recycling Criteria</b>
<b>Additives</b>
<b>Labels/sleeves</b>
<b>Closure systems and small parts</b>
<b>Adhesives</b>
<b>Colours</b>
<b>Material composition</b>
<b>Barriers /coatings</b>
<b>Inks / printing</b>
<b>Product residues / ease of emptying</b>

**Ease of dismantling (design feature of the packaging)**

### **ANNEX III**

#### **COMPOSTABLE PACKAGING**

Conditions to be considered when mandating 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, chemical, thermal or biological~~ decomposition, including anaerobic digestion, resulting ultimately in conversion into carbon dioxide or methane, in the absence of oxygen, mineral salts, biomass and water,
- (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
- (f) its use does not increase the contamination of non-compostable packaging waste streams.

New table I of Annex II of the PPWR proposal with an extra column with the former category number to facilitate the correspondence with the new categories proposed by the JRC.

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

Proposed amendment of Table 1 of Annex II of the PPWR proposal

Cat. No (new)	Cat. No (old)	Predominant packaging material	Packaging type	Format (illustrative)	Colour
1	1 + 2	Glass	Glass and composite packaging, of which the majority is glass	Bottles, jars, flacons, cosmetics pots, tubs etc. made of glass (soda lime silica)	-
2	3	Paper/cardboard	Paper/cardboard packaging	Boxes, trays, grouped packaging, flexible paper packaging (e.g. films, sheets, pouches, lidding, cones, wrappers)	-
3	4	Paper/cardboard	Composite packaging of which the majority is paper/cardboard	Beverage cartons, paper cups and boxes made of liquid paperboards 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, etc.	-
4	5 + 6	Metal	Steel and composite packaging of which the majority is steel	Rigid packaging formats (aerosols, cans, paint tins, boxes, trays, drums, tubes etc.) made of steel, including tinplate and stainless steel	-
5	7 + 9	Metal	Aluminium and composite packaging of which the majority is Aluminium	Rigid formats (food and beverage cans, bottles, aerosols, drums, tubes, cans, boxes, trays) made of Aluminium	-
6	8 + 9	Metal	Aluminium and composite packaging of which the majority is Aluminium	Semi rigid or flexible formats (containers and trays, tubes, foils, flexible aluminium foil) made of Aluminium	-
7	10 + 11	Plastic	PET - rigid	Bottles and Flasks	Transparent clear / light blue, transparent other colours
8	12	Plastic	PET - rigid	Rigid packaging other than bottles and flasks (Includes pots, tubs and mono- and multilayer trays)	Transparent
9	13	Plastic	PET - flexible	Films	-
10	14 + 15	Plastic	PE - rigid	Containers, bottles and tubes	Natural / white, coloured
11	16 + 17	Plastic	PE - flexible	Films incl. multilayer and multi-material packaging	Natural / clear, coloured
12	18 + 19	Plastic	PP - rigid	Containers, bottles and tubes	Natural / clear, coloured
13	20 + 21	Plastic	PP - flexible	Films incl. multilayer and multi-material packaging	Natural / clear, coloured

14	22	Plastic	HDPE and PP - rigid	Crates and pallets, corrugated board plastic	-
15	23	Plastic	PS - rigid	Rigid packaging (except EPS and XPS)	-
16	24	Plastic	EPS - rigid	Fish boxes/ white goods, trays	
17	25	Plastic	XPS - rigid		-
18	26	Plastic	Other rigid plastics including. e.g. PVC, PC – rigid, and biodegradable plastics – rigid (e.g. PLA, PHB) <sup>1</sup>	Rigid, incl. industrial packaging (e.g. IBCs, drums)	-
19	27	Plastic	Other flexible plastics including multilayer plastic films and multi-material materials – flexible, and biodegradable plastics – flexible (e.g. EVOH, PLA films) <sup>2</sup>	Pouches, thermoformed packages, vacuum packaging, modified atmosphere/modified humidity packaging incl. industrial packaging (FIBCs, bags, stretch film)	-
20	28	Wood, cork	Wooden packaging, including cork	Pallets, boxes, wine crates	-
21	29	Textile	Natural and synthetic textile fibres	Bags	-
22	30	Ceramics or porcelain stoneware	Clay, stone	Pots, containers, bottles	-

If there is a need to further reduce the number of packaging categories, the following categories could be clustered:

- categories 14, 15, 18 and 19 (polyolefin rigid – containers, bottles and tubes)
- categories 16, 17, 20 and 21 (polyolefin flexible – films incl. multilayer and multi-material packaging)

This would result in a total of 20 packaging categories.

<sup>1</sup> Bio-degradable plastic (rigid) could alternatively be placed in a new stand-alone category.

<sup>2</sup> Bio-degradable plastic (flexible) could alternatively be placed in a new stand-alone category.



**PRES ES TEXT proposal to address MS comments on cluster 3 of**  
**REV 01 PPWR**

***Corresponding recitals to cluster 3***

- (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 a ~~maximum~~ **minimum** number of trips or 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. **The existing standard, EN 13429:2004 will no longer provide for presumption of conformity since it ~~be applicable and~~ needs to be revised ~~and~~ replaced by an updated version. However, before there is a new or updated harmonised standard available, the existing standard, EN 13429:2004, can be used as guidance.**
- (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 ~~an existing~~ 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 ~~a~~ or several Member States's 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

**Commented [PRP1]:** PRE: Correction, having settled for 10 rotations, this wording makes more sense than "as high as possible"

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 of the re-use and refill targets. However, containers owned by the consumer, performing a packaging function in the context of refill, such as reusable cups, mugs, bottles or boxes are not packaging in the sense of 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.
- (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 and refill 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 ~~measures~~ 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. The use of single use packaging for food and beverages filled and consumed within the premises in the HORECA sector should not be allowed.
- (68) To increase their effectiveness and ensure the equal treatment of economic operators, the re-use and refill targets should be placed on the economic operators. In cases of targets for beverages, **except for wine,** they should be additionally placed also on the manufacturers, as these actors are able to control the packaging formats used for the products they offer. The targets should be calculated as a percentage of sales, **volume or weight** in reusable packaging within a system for re-use or through refill or, in case of transport packaging, as a percentage of ~~uses~~ **number of times used**. The targets should be material neutral. In order to ensure uniform conditions for the implementation of targets for re-use and refill, the power to adopt an implementing act in accordance with Article 291 of the Treaty on the methodology for their calculation, should be delegated to the Commission.

- (69) ~~Certain uses~~**In some cases, the use of single use transport packaging formats is** ~~are~~ 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 use only, 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.
- (70) Achieving re-use and refill targets can be challenging for smaller economic operators. Therefore, certain economic operators ~~should~~ **could** ~~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, or fulfil the definition of micro-~~enterprise~~**company** under Commission Recommendation 2003/361/EC<sup>1</sup>, or have the sales area, including all ~~storage and~~ dispatch areas, under a certain surface limit. ~~Member States have the possibility to decide if these exemptions should be implemented.~~ The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to establish re-use and refill targets for other products, 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 and refill 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 or refill targets should be calculated on the basis of the aggregated total number of units of sale or weight of food or the total number of units of sale or volume of beverage** ~~number of sales packaging for each target.~~

**Commented [PRP2]:** PRE: To align it with the proposed 'sales area' definition. Storage areas should not be counted because they are not open to the public.

**Commented [PRP3]:** PRE: This is not in line with the wording of article 26 (15a) of REV\_1 and what was discussed at the WPE meeting in July.

**Commented [PRP4]:** PRE: According to the new proposal on art 27

### *Article 3 Definitions*

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

- (1a) 'take-away packaging' means service packaging purchased at attended points of sale, including cold or hot beverages filled into a container at the**

<sup>1</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).

**final distributor and ready-prepared food filled into a container at the final distributor, intended for immediate consumption without the need for any further preparation, and typically consumed from the receptacle;**

- (22) ‘re-use’ means any operation by which reusable packaging is used again 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 products 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 the products;
- (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, ~~for~~ financial arrangements, which enable the re-use either in a closed loop or open loop system. Deposit and return systems, when they ensure that packaging is collected for re-use, are considered as part of a system for re-use;
- (27) ‘reconditioning’ means ~~an operations~~ **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 an end user’s ~~fills its~~ own container, which fulfils the packaging function, **is filled by the end user or by the final distributor** with a product or several products offered by the final distributor in the context of a commercial transaction;
- (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>2</sup>;

**(30a) ‘sales area’ means the area given to the display of goods offered for sale, to the payment thereof, and to the circulation of customers to carry out their purchases. This does not include the areas not open to the public, such as storage areas, or other areas such where products are not displayed, such as car parks;**

**Commented [PP5]:** PRE: To address MS comments, because there may be more than one operation necessary.

**Commented [PRP6]:** PRE: Second link has been updated

**Commented [PRP7]:** PRE: For greater legal certainty for the purposes of Articles 26(13b) and 26(15)

<sup>2</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 \(europa.eu\)](#)

*Article 10 Reusable packaging*

1. Packaging **placed on the market from [insert day of entry into force of the Regulation]** shall be considered reusable where if fulfils the following conditions:
  - (a) it has been conceived, designed and placed on the market with the objective to be re-used or refilled;
  - (b) it has been conceived and designed to accomplish as many trips or rotations as possible in normally predictable conditions of use, **but no less than 10**;
  - (c) it can be emptied or unloaded without damage to the packaging **in such a way** 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 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; ~~set out in Article 6.~~
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.
- 2a. **By [OP, please insert date = 12 months after the entry into force of this Regulation] the Commission shall request the European standardisation organisations, ~~as appropriate~~, to prepare harmonised standards which define different reusable packaging formats, based on the assessment of the most frequently used reusable packaging formats and the need for their standardisation in view of the targets set out in Article 26. The **Commission shall request that those standards should** define a specific minimum number of trips or rotations as well as any hygiene or other requirements for each of the different packaging formats, as well as the methodology for calculating and verifying the number of their trips and rotations, including**

**Commented [PP8]:** PRE: To address MS comments about the wording is not clear enough regarding food safety rules

**Commented [PRP9]:** PRE: COM can make a specific request, but we cannot determine the content of the standards here.

through a ~~standardized~~**standardised**, open, digital carrier. The number of trips or rotations shall for each of the different packaging formats never be less than 10, ~~which is the minimum number applicable to all types of packaging, as prescribed in paragraph 1(b) of this Article.~~

Commented [PRP10]: PRE: Not needed

#### Article 23

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

1. ~~The Economic operators who place~~ **make a reusable packaging available within the territory of a Member State for the first time on the market** shall ensure that a system for re-use of such packaging is in place **in that Member State**, which meets the requirements laid down in Article 24 and Annex VI.
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, ~~in~~ 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** ~~recondition such packaging~~ in compliance with Part B of Annex VI, prior to offering it again for use by end users.

#### 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 packaging offered to the end users at the refill stations is not provided free of charge 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.

#### Article 26

##### Re-use and refill targets

1. ~~From 1 January 2030, The~~ economic operators making large household appliances listed in point 21 of Annex II to Directive 2012/19/EU available on the market for the first time within the territory of a Member State shall ensure that: ~~at least 90 %~~
  - (a) **from 1 January 2030, at least 10 %** of those products are made available in reusable ~~transport~~ packaging within a system for re-use;
  - (b) **from 1 January 2040, at least 50 % of those products are made available in reusable packaging within a system for re-use;**
2. The final distributor making available on the market within the territory of a Member State ~~in sales packaging cold or hot beverages filled~~ **in take-away packaging or** into a container at the point of sale for take-away shall ensure that:
  - (a) from 1 January 2030, **at least 20 %** of those beverages are made available in reusable packaging within a system for re-use or by enabling refill;
  - (b) from 1 January 2040, **at least 80 %** of those beverages are made available in reusable packaging within a system for re-use or by enabling refill.
3. ~~The~~A 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 **ready-prepared food** in ~~sales take-away~~ packaging ~~take-away ready prepared food, intended for immediate consumption without the need of any further preparation, and typically consumed from the~~ **packaging** receptacle, shall ensure that:
  - (a) from 1 January 2030, **at least 10 %** of those products are made available in reusable packaging within a system for re-use or by enabling refill;

**Commented [PP11]:** PRE: The date is determined in points a) and b)

**Commented [PP12]:** PRE: The use of the definition of take-away packaging intends to clarify which packaging are meant here, and also to take into account the containers that consumers can bring.

**Commented [PP13]:** PRE: The use of the definition of take-away packaging intends to clarify which packaging are meant here.

- (b) from 1 January 2040, **at least 40 %** of those products are made available in reusable packaging within a system for re-use or by enabling refill.
4. The manufacturer and the final distributor making available on the market within the territory of a Member State in sales packaging alcoholic **and non-alcoholic beverages** ~~in the form of beer, carbonated alcoholic beverages, fermented beverages other than wine, aromatised wine products and fruit wine, products based on spirit drinks, wine or other fermented beverages mixed with other beverages, soda, cider or juice,~~ **alcoholic and non-alcoholic wine, with the exception of sparkling wine** non-alcoholic beverages in the form of water, water with added sugar, water with other sweetening matter, flavoured water, soft drinks, soda lemonade, iced tea which are immediately ready to drink, pure juice, juice or must of fruits or vegetables and smoothies without milk and non-alcoholic beverages containing milk ~~fraction~~, shall ensure that:
- (a) from 1 January 2030, **at least 10 %** of those products are made available in reusable packaging within a system for re-use or by enabling refill;
- (b) from 1 January 2040, **at least 2540 %** of those products are made available in reusable packaging within a system for re-use or by enabling refill.
5. ~~The manufacturer and the final distributor making available on the market within the territory of a Member State in sales packaging, alcoholic beverages and non-alcoholic in the form of wine, with the exception of sparkling wine, shall ensure that:~~
- (a) ~~from 1 January 2030, at least 5 % of those products are made available in reusable packaging within a system for re-use or by enabling refill;~~
- (b) ~~from 1 January 2040, at least 15 % of those products are made available in reusable packaging within a system for re-use or by enabling refill.~~
- The final distributor making available on the market within the territory of a Member State in sales packaging, alcoholic beverages and non-alcoholic in the form of wine, with the exception of sparkling wine, shall ensure that:**
- (a) from 1 January 2030, at least 5 % of those products are made available in reusable packaging within a system for re-use or by enabling refill;**
- (b) from 1 January 2040, at least 10 % of those products are made available in reusable packaging within a system for re-use or by enabling refill.**
6. ~~The manufacturer and the final distributor making available on the market within the territory of a Member State in sales packaging non-alcoholic beverages in the form of water, water with added sugar, water with other sweetening matter, flavoured water, soft drinks, soda lemonade, iced tea and similar beverages~~

Commented [PRP14]: PRE: Included in paragraph 5

Commented [PR15]: PRE: To address MS comments to take into account the significant export component of this industry in all European wine-producing countries when wine must be packaged in a specific region. The targets **only apply to the final distributor** and not to the manufacturer



~~which are immediately ready to drink, pure juice, juice or must of fruits or vegetables and smoothies without milk and non-alcoholic beverages containing milk fat, shall ensure that:~~

- ~~(a) from 1 January 2030, at least 10 % of those products are made available in reusable packaging within a system for re-use or by enabling refill;~~
- ~~(b) from 1 January 2040, at least 25 % of those products are made available in reusable packaging within a system for re-use or by enabling refill.~~

7. Economic operators using transport packaging **or sales packaging only used for transportation** in the form of pallets, plastic crates, foldable plastic boxes, pails and drums for the conveyance or packaging of products in conditions other than provided for under paragraphs 12 and 13 shall ensure that:

- (a) from 1 January 2030, **at least 30 %** of such packaging used is reusable packaging within a system for re-use;
- (b) from 1 January 2040, **at least 90 %** of such packaging used is reusable packaging within a system for re-use.

**The targets under the first subparagraph do not apply to the manufacturer and the final distributor referred to in paragraph 4.**

8. Economic operators using transport packaging **or sales packaging, which is typically only used for transportation**, for the transport and delivery of non-food items made available on the market for the first time via e-commerce shall ensure that:

- (a) from 1 January 2030, **at least 10 %** of such packaging used is reusable packaging within a system for re-use;
- (b) from 1 January 2040, **at least 50 %** of such packaging used is reusable packaging within a system for re-use;

9. Economic operators using transport packaging ~~in the form of pallet wrappings and straps~~ for stabilization and protection of products put on pallets during transport, ~~including, but not limited to, pallet wrappings or straps,~~ shall ensure that:

- (a) from 1 January 2030, **at least 10 % of such packaging for stabilization and protection during such transports used** is reusable packaging within a system for re-use;
- (b) from 1 January 2040, **at least 30 % of such packaging for stabilization and protection during such transports used for transport** is reusable packaging within a system for re-use;

10. 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 unit shall ensure that:

**Commented [PRP16]:** PRE: To avoid uncertainty because "typically" is not precise.

**Commented [PRP17]:** PRE: This is implicit in the term "including"

- (a) from 1 January 2030, **at least 10 %** of such packaging used is reusable packaging within a system for re-use;
- (b) from 1 January 2040, **at least 25 %** of such packaging ~~they~~ used is reusable packaging within a system for re-use.
11. Targets laid down in paragraphs 1 to ~~10~~ shall be calculated for the period of a calendar year.
12. ~~From 1 January 2030, TEconomic operators using transport packaging or sales packaging only used for transportation, used by an economic operator shall be reusable where it is used for transporting products:~~
- (a) ~~between different sites, on which the operator performs its activity; or~~
- (b) ~~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, as applicable in the version publicly available on [OP: Please insert the date = the date of entry into force of this Regulation]-, shall ensure that:~~
- (a) from 1 January 2030, 25% of such packaging is reusable within a system for re-use;**
- (b) from 1 January 2040, 50% of such packaging is reusable within a system for re-use.**
- This obligation applies to pallets, **boxes**, ~~boxes, excluding cardboard~~, trays, plastic crates, intermediate bulk containers, drums and canisters, of all sizes and materials, including flexible formats, ~~and boxes, excluding cardboard~~.
13. ~~From 1 January 2030, Eeconomic operators using transport packaging or sales packaging only used for transportation to delivering products to another economic operator within the same Member State shall ensure that: use only reusable transport packaging or reusable sales packaging used only for transportation for the purpose of the when transportation of such products.~~
- (a) from 1 January 2030, 25% of such packaging is reusable within a system for re-use;**
- (b) from 1 January 2040, 50% of such packaging is reusable within a system for re-use.**
- This obligation applies to pallets, **boxes**, ~~boxes, excluding cardboard~~, plastic crates intermediate bulk containers, and drums, of all sizes and materials, including flexible formats, ~~and boxes, excluding cardboard~~.
- 13b. Final distributors, addressed in under paragraphs 2 to 54, with a sales area above 400 m<sup>2</sup> 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 return**

**Commented [PRP18]:** PRE: To address MS comments in order to be material-neutral (including cardboard) but giving enough flexibility to economic operators.

This means that 25% of all transport packaging will be reusable by 2030, and 50% by 2040, but this obligation applies to all materials, including cardboard.

**Commented [PRP19]:** PRE: Same as above

~~option must be free of charge and~~ **The end users shall be able to return the packaging offered at the location where the actual handover of such packaging takes place or in its immediate proximity/vicinity. They 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/respective system of reuse.**

**Commented [PRP20]:** PRE: Reordered for clarity

14. Economic operators shall be exempted from the obligation to meet the targets in paragraphs 2 to ~~2+0~~ if, during a calendar year, they:
- (a) placed not more than 1000 kg of packaging on the market; or
  - (b) complied with the definition of micro-~~enterprise company~~ in accordance with rules set out in the Commission Recommendation 2003/361, **in the version publicly available as applicable** 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.**

**Commented [PRP21]:** PRES: To address MS comments to adjust the threshold in art. 26.14 and 26.15 according to national conditions.

15. Economic operators shall be exempted from the obligation to meet the targets in paragraphs 2 to ~~65~~ if, during a calendar year, they have a sales area of not more than 100 m<sup>2</sup>, including also ~~all storage and~~ dispatch areas.

**Commented [PRP22]:** PRE: To align it with the proposed 'sales area' definition. Storage areas should not be counted because they are not open to the public.

**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.**

**Commented [PRP23]:** PRES: To address MS comments to adjust the threshold in art. 26.14 and 26.15 according to national conditions.

- 15a 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 2 and 3 in relation to packaging within the scope of Directive (EU) 2019/904.**

**Commented [PRP24]:** PRE: Moved from article 45.2(d) but only for packaging within the scope of SUPD (PART A of the Annex)

16. **In order to take account of the latest scientific and economic data and developments,** ~~the~~ Commission shall be empowered to adopt delegated acts in accordance with Article 58 to supplement this Regulation in order to establish:
- (a) targets for other products than those covered by paragraphs 1 to ~~56~~ of this Article and other packaging formats than those in paragraphs ~~67~~ to ~~940~~, based on the positive experiences with measures taken by Member States under Article 45(2),
  - (b) exemptions for economic operators additional to those listed in points (a) ~~to (e)~~ and (b) of paragraph ~~413~~ of 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 2 to ~~6~~<sup>5</sup> of this Article in case of hygiene, **and** food safety ~~or environmental issues~~ preventing the achievement of those targets,

**(ca) exemptions for specific packaging formats covered by the targets laid down in paragraphs 2 to ~~9~~<sup>10</sup>, ~~11~~<sup>12</sup> and ~~12~~<sup>13</sup> of this Article in case of environmental issues preventing the achievement of those targets.**

17. By [OP: Please insert the date = 8 years after the date of entry into force of this Regulation], the Commission shall review the situation regarding reuse of packaging and, on this basis, assess the appropriateness of establishing measures, reviewing the targets **and exemptions** laid down in this Article, and **the need for** setting new targets for the reuse and refill of packaging, and where necessary present a legislative proposal.

#### Article 27

##### *Rules on the calculation of the attainment of the re-use and refill 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 ~~21~~ 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 Articles ~~26(2), 26(4) and 26(5) to (6)~~, the final distributor, ~~or~~ **and** 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 aggregate~~ number of units of sales **or total volume** of beverages ~~and 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;
  - (b) the ~~total aggregate~~ number of units of sales **or total volume** of beverages ~~and food~~ made available on the market within the territory of a Member State in a calendar year through refill;
  - (c) the ~~total aggregate~~ number of units of sales **or total volume** of beverages ~~and 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.

**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, for each target separately, the following:**

**(a) the total aggregate 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;**

**(b) the total aggregate number of units of sales or total weight of food made available on the market within the territory of a Member State in a calendar year through refill;**

**(c) the total aggregate 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 ~~31 December~~ **1 January** 2028, 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).

#### *Article 28*

##### *Reporting to the competent authorities on re-use and refill 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.

**Commented [PP25]:** PRE: We add this new paragraph to maintain the rules for article 26(3) referring to ready-prepared food and not beverage which would be in 26(2) based on "units of sales" or total weight of product.

According to article 26(3) is always the final distributor the addressee of this obligation

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.

## SECTION 5 Re-use and refill

### *Article 45 Re-use and refill*

1. Without prejudice to Articles 23 to 27 of this Regulation, Member States shall take measures to encourage the set-up of systems for re-use of packaging 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 ~~or~~ **and** to inform consumers about the cost of such packaging at the point of sale,
  - (c) requirements on 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,
  - (d) **targets for economic operators in sectors covered by Article 26 going beyond the minimum targets set out in that Article 26.**

## **ANNEX VI**

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

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

**‘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;**

‘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;

‘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;

‘system operator’ shall mean any natural or legal person being a system participant, who manages a system for re-use;

‘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 A**

#### **Requirements for systems for re-use**

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

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

(a) ~~(e)~~ The system has a clearly defined governance structure **as described in the guidelines;**

(b) ~~(f)~~ the governance structure ensures that the ~~re-use targets and any other~~ objectives of the system **in the governance guidelines** can be met;

(c) ~~(g)~~ the governance structure allows for equal access and fair conditions of all economic operators wishing to become a part of the system;

(d) ~~(h)~~ the governance structure allows for equal access and fair conditions for all end-users;

(e) ~~(i)~~ 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, **e.g. by using a deposit refund system;**



(ix) rules to ensure equal and fair access to the reuse system including vulnerable end-users;

(f) ~~(j)~~ the system operator of the system controls the proper functioning of the system and verifies whether the re-use is properly enabled;

(g) ~~(k)~~ the system has reporting rules, allowing to access data on number of fillings or re-uses, and rejects, collection rate, units of sales or equivalent units;

(h) ~~(l)~~ design of the packaging is laid down in accordance with mutually agreed specifications or standards;

(i) ~~(m)~~ the system ensures a fair distribution of costs and benefits for all system participants.

**(i) 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 existing at entry of force of the Regulation, which do not have a system operator, are exempted from part A, points (b), (f), (g) and (i).**

## **2. 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;

### **3. 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 B**

##### **Reconditioning**

- 1. The reconditioning process shall not create risks to the health and safety of those responsible for doing so and strive to reduce its impact on the environment. It shall be operated in accordance with applicable legislation on contact sensitive materials.
- 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.

Where necessary, cleaning and washing processes should be applied at different stages of the reconditioning and repeated.

The reconditioned product shall meet health and safety requirements applicable to it.

### Part C

#### Requirements for refill

~~As regard R~~ 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) ~~information about the end user's responsibility to maintain the hygiene standards;~~
  - (iii) 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 applicable hygiene standards set out in applicable law.**
- (b) contain a weighing device allowing the end user's container to be weighed **or provide similar means of ensuring the end user a specified amount for purchase;**
- (c) the price paid by end users ~~shall should~~ not include the weight of the refill container;
- (d) ~~the final distributor to ensure compliance with applicable hygiene standards.~~

Commented [PRP26]: PRES: To address MS comments.

**PRES ES TEXT proposal to address MS comments on cluster 7 of REV01**  
**PPWR**

*Corresponding recitals to cluster 7*

- (128) Public procurement amounts to 14 % of the Union's GDP. 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 acts in accordance with Article 290 of the Treaty should be delegated to the Commission, which may exercise it as necessary, to require, where appropriate, contracting authorities and entities as defined in Directive 2014/24/EU of the European Parliament and of the Council<sup>1</sup> and Directive 2014/25/EU of the European Parliament and of the Council<sup>2</sup>, to align their procurement with specific **minimum mandatory** green public procurement **requirements criteria or targets**. Compared to a voluntary approach, mandatory **requirements criteria or targets** should ensure that the leverage of public spending to boost demand for better performing packaging is maximised. **The Commission shall should adopt delegated acts in accordance with Article 58 supplementing this Regulation by establishing minimum mandatory green public procurement requirements.** The requirements criteria should be transparent, objective and non-discriminatory. Requirements refer to technical specifications, **selection criteria, contract award criteria and or contract performance conditions clauses.** **The Commission may require targets to be achieved by establishing, for instance, a percentage of all the tendering procedures concerning a particular product group to comply with established requirements. The percentage may be expressed in the aggregate number or value of contracts for the purchase of relevant sustainable products as compared to the overall number and value of relevant contracts for the sector or product at stake.** Contracting authorities and entities 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 Article 57.

Commented [PRP1]: Editorial change

Commented [GSG2]: Addition in coherence with proposed changes in article 57.3

Commented [PRP3]: In coherence with article 70 Directive 2014/24/EU

<sup>1</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>2</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).

*Article 3*

*Definitions*

[...]

- (61) **'public contracts' means public contracts as defined in Article 2(5) of Directive 2014/24/EU or as referred to in Directive 2014/25/EU;**

*Article 57*

*Green public procurement*

1. 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, shall, when awarding ~~any~~ public contracts, for packaging or packaged products or for services using packaging or packaged products in situations covered by those Directives, apply the **minimum mandatory green public procurement requirements**~~criteria~~ to be developed in delegated acts adopted pursuant to paragraph 3.

2. The obligation set out in paragraph 1 shall apply to ~~any~~ **procedures for the awarding of public contracts referred to in that paragraph** ~~procedures according to paragraph 1 for procurement by contracting authorities or contracting entities for the awarding of public contracts for packaging or packaged products or for services using packaging or packaged products, which is initiated~~ **commenced** 12 months or later after the entry into force of the respective delegated act to be adopted pursuant to paragraph 3.

3. The Commission shall, by [OP: please insert the date = 60 months after the date of entry into force of this Regulation], adopt delegated acts in accordance with Article 58 supplementing this Regulation by establishing minimum mandatory green public procurement **requirements**~~criteria~~ based on the requirements set out in Article 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) ~~the need to ensure sufficient demand for more environmentally sustainable packaging or packaged products;~~
- (c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable packaging or packaged products, without entailing disproportionate costs-
- (d) **the market situation at Union level of the relevant packaging or packaged products;**

**The minimum mandatory green public procurement requirements shall take the form of: mandatory**

Commented [GG4]: To clarify better, change of wording

(i) **technical specifications within the meaning of Article 42 of Directive 2014/24/EU and of Article 60 of Directive 2014/25/EU. ~~The requirements may also be in the form of targets.~~**

**(ii) selection criteria within the meaning of Article 58 of Directive 2014/24/EU and of Article 80 of Directive 2014/25/EU,**

**(iii) contract performance ~~conditions clauses~~ within the meaning of Article 70 of Directive 2014/24/EU and of Article 87 of Directive 2014/25/EU.**

**(iv) Contract award criteria within the meaning of Article 67 of Directive 2014/24/EU and of Article 82 of Directive 2014/25/EU.**

**Commented [GSG5]:** To address MS comments on coherence with other legislative proposals.

**Commented [GSG6]:** To address MS comments on coherence with other legislative proposals.

Those **minimum mandatory** green public procurement **requirements**~~criteria~~ shall be developed in accordance with the principles contained in Directive 2014/24/EU and in Directive 2014/25/EU ~~to and with the principle that the packaging to be chosen on the basis of those criteria~~ facilitates 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 delegated act referred to in paragraph 1 on the grounds of public security or public health.**