



Brussels, XXX  
[...] (2022) XXX draft

Proposal for a

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

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

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

All goods need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Packaging manufacturing is also an important economic activity. However, regulatory approaches that differ from one Member State to another create obstacles that prevent the internal market for packaging, packaged goods, and the secondary raw materials for packaging, from fully functioning. Examples of such regulatory differences, as recently observed, range from differing packaging labelling requirements, to different approaches to defining recyclable or reusable packaging, different approaches to modulating extended producer responsibility fees and other measures, such as marketing restrictions for certain packaging formats. This creates legal uncertainty for businesses, leading to lower investment in innovative and environment-friendly packaging and new circular business models. In addition, packaging is one of the causes of important environmental concerns: packaging is one of the main users of virgin materials (40% of plastics and 50% of paper used in the EU is destined for packaging) and accounts for 36% of municipal solid waste. The increased use of packaging coupled with low reuse and recycling rates hamper the development of a low-carbon circular economy. Packaging increases faster than the gross national income, which leads to CO<sub>2</sub> and other emissions and the acceleration of climate change, the overexploitation of natural resources, biodiversity loss and pollution.

The Industrial Strategy for Europe<sup>1</sup> has confirmed the importance of the internal market for the EU's competitiveness and prosperity. European citizens and operators experience barriers that prevent them from fully exploiting the potential of the single market including restrictive and complex national rules, limited administrative capacities, imperfect transposition of EU rules and their inadequate enforcement.

The Council conclusions of December 2020<sup>2</sup> welcomed the intention of the Commission to ensure that all packaging is reusable or recyclable in an economically feasible manner by 2030 and to reduce packaging, over-packaging and thereby packaging waste.

The Parliament's resolution of 10 February 2021 on the New Circular Economy Action Plan<sup>3</sup>, reiterated the objective to make all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a legislative proposal including waste reduction measures and targets and ambitious requirements to reduce excessive packaging, also in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote reuse. It underlined that food safety or hygiene standards must not be compromised.

Finally, the Conference on the Future of Europe demonstrated that EU citizens and civil society have called for strong action on waste prevention, packaging waste management and packaging circularity through increased use of recycled materials.

A more efficient use of materials, by encouraging the use of recycled materials instead of primary raw materials, and supporting the circular economy of packaging, will help decouple economic development from the use of natural resources, contribute to achieving climate neutrality by 2050 and halting biodiversity

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0102>

<sup>2</sup> <https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf>

<sup>3</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html)

loss, and reduce strategic dependencies for many materials for the EU economy, which will be more resilient and competitive to disruptions in integrated global value chains.

While the amendment of Directive 94/62/EC in 2018 has not addressed all the weaknesses in the implementation of the Directive, it has included three review clauses that are being implemented by this initiative. This initiative updates the EU legislative framework for packaging and packaging waste by giving Member States and businesses adequate support to achieve existing targets, through a harmonised regulatory framework, which will apply equally and at the same time in all the Member States, and which supports investment, reduces waste and promotes high-quality recycling.

- **Consistency with existing policy provisions in the policy area**

The proposed Regulation updates the EU's legislative framework for packaging and packaging waste. It is an integral part of the European Green Deal<sup>4</sup> and the new EU Circular Economy Action Plan, contributing to the EU's growth strategy to transform the EU into a modern, resource-efficient, clean and competitive economy where there are no net emissions of greenhouse gases by 2050, and where economic growth is decoupled from resource use

In line with the 'one-in-one-out' principle<sup>5</sup>, the proposed Regulation should replace the current Packaging and Packaging Waste Directive.

The proposal is fully in line with the existing environmental and waste legislation in the EU, in particular, the Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste<sup>6</sup>, Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment<sup>7</sup>, Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union<sup>8</sup> and 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)<sup>9</sup>.

It is also complementary to the recently adopted Commission's proposals for a Regulation of the European Parliament and of the Council on waste shipments<sup>10</sup>, a Regulation of the European Parliament and of the Council establishing a framework for setting eco-design requirements for sustainable products<sup>11</sup>, the Commission's proposal for a Directive of the European Parliament and of the Council on substantiation of Green Claims<sup>12</sup> and the Communication from the Commission on EU Policy framework on bio-based, biodegradable and compostable plastics<sup>13</sup>.

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<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, The European Green Deal, COM/2019/640 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN>

<sup>5</sup> Every legislative proposal creating new burdens should relieve people and business of an existing equivalent burden at EU-level in the same policy area. Communication from the President to the Commission: The Working Methods of the European Commission (P(2019) 2).

<sup>6</sup> OJ L 312, 22.11.2008, p. 3.

<sup>7</sup> OJ L 155, 12.6.2019, p. 1.

<sup>8</sup> OJ L 424, 15.12.2020, p. 1.

<sup>9</sup> OJ L 396, 30.12.2006, p. 1

<sup>10</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0709>

<sup>11</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0142>

<sup>12</sup> [https://ec.europa.eu/environment/eussd/smgp/initiative\\_on\\_green\\_claims.htm](https://ec.europa.eu/environment/eussd/smgp/initiative_on_green_claims.htm)

<sup>13</sup> [https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics\\_en](https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en)

- **Consistency with other Union policies**

The initiative is consistent with the EU's international obligations in the area of trade policy, in particular because it ensures non-discrimination between products produced in the EU and imported products.

The proposal also aims to ensure more harmonised monitoring and reporting obligations, including more harmonised producer reporting under EPR schemes, thus limiting the administrative burden on Member States and economic operators, in line with the EU's better-regulation approach<sup>14</sup> and the fitness check on reporting and monitoring<sup>15</sup>.

In addition, as the EU is committed to implementing the UN 2030 Agenda for Sustainable Development, including its 17 Sustainable Development Goals (SDGs). This initiative will improve the EU's performance on SDG 12.5 by significantly reducing waste generation through prevention, reduction, recycling and reuse by 2030.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

Article 114 of the Treaty on the Functioning of the European Union (TFEU) is the legal basis for this proposal.

In line with the new approach to product policy as announced in the European Green Deal<sup>1</sup> and the Circular Economy Action Plan, the proposal covers the full life cycle of packaging. It takes the approach of the "traditional" internal market legislation by creating harmonised conditions for the placing on the market of packaging. However, by taking into account the whole packaging life cycle, this internal market approach is extended also cover the end-of-life phase, so creating a truly internal market for packaging, without obstacles to their free movement and equal production, marketing and waste treatment conditions throughout the EU.

Article 114 is the legal basis of the current Directive 94/62/EC on packaging and packaging waste; on its basis, the Union may adopt measures for the approximation of the provisions laid down by law, regulation or administrative action in the Member States, which are aimed at ensuring the proper functioning of the internal market. This legal basis will allow to address a number of key Single Market issues hampering the harmonised application of packaging rules, including: (i) the sustainability requirements, (ii) the harmonised criteria for the eco-modulation of fees under the extended producer responsibility schemes, and (iii) harmonised labelling requirements. End-of-life requirements complete this life-cycle approach. While leaving the detailed administrative requirements to the Member States, the proposal regulates those aspects where harmonisation will positively impact the functioning of the internal market for packaging and prevents market distortions and obstacles to free movement. This is done, inter alia, by harmonising the rules concerning the provisions on extended producer responsibility and related reporting where differing Member States requirements create barriers for economic operators selling packaging in several Member States or across the EU. Likewise, establishing a common framework for packaging collection, deposit and return schemes, and for reuse systems is necessary both for the environmental effectiveness and to create equal conditions for businesses active on the respective markets. The common framework for packaging collection, sorting and recycling has an important impact on the recyclability of packaging and the availability of secondary raw materials.

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<sup>14</sup> SWD(2015)111 final. [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2015\)111&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2015)111&lang=en)

<sup>15</sup> COM(2017)312 final.

- **Subsidiarity (for non-exclusive competence)**

The problems identified regarding packaging, from the barriers to the internal market, to the reduced packaging circularity, and the growing amounts of packaging waste and other negative impacts of packaging on the environment and climate change, cannot be sufficiently addressed by Member States alone. With high levels of cross-border trade between Member States and many producers placing packaging on the market in several Member States, the EU packaging market is, in many aspects, one large market rather than 27 individual markets. While national initiatives bring responses to some of the challenges above and bring about some benefits for the environment, they also create further fragmentation of the internal market. Moreover, environmental concerns related to packaging are common to all Member States.

Setting common requirements at the EU level has a clear added value as it will ensure the necessary harmonisation and a proper functioning of the internal market and, thus, a level playing field for economic operators – both those using packaging for their products and those who supply packaging or packaging materials. With requirements and targets set at EU level, the transition to sustainable and circular packaging will be consistent across Member States, creating a larger and more efficient market.

- **Proportionality**

The proposed measures are intended to provide the regulatory certainty, which is necessary to encourage large-scale investment into sustainable packaging solutions. It addresses the entire packaging value chain, from designing of products and services where no or less packaging is required to packaging manufacturing and use, while ensuring a high level of environmental and human health protection. The objective of this initiative is to modernise and strengthen the existing legislative framework to allow for economies of scale through common approaches, while giving industry and Member States the necessary flexibility, where this is necessary in view of innovation or local circumstances.

For some of the proposed policy options, a **step-wise approach** in strengthening the requirements is considered to best uphold the principle of proportionality. The proposal therefore includes a **gradual increase** in ambition and requirements, such as the sustainability requirement on recyclable packaging and the reconsideration of the need for exemptions from concentration limits for substances of concern in certain packaging materials.

Overall, the proposed measures represent a step change from the existing regulatory framework and do not go beyond what is necessary to ensure a regulatory compliance while guaranteeing the protection of human health and the environment.

- **Choice of the instrument**

The current legislation has resulted in a non-attainment of the general environmental and internal market objectives despite its explicit objectives and measures in this regards. Differing national transposition measures and sometimes unilateral Member States' actions on packaging policies have led to uneven national regulatory frameworks. This trend is set to continue given the challenges to the packaging sustainability as outlined in the Impact Assessment Report, in particular the increasing amounts of packaging waste, barriers to packaging circularity and low use of recycled content in plastic packaging. A patchwork of national transpositions reduces the effectiveness of the policy and puts in jeopardy the effective establishment of a circular economy.

The regulatory failures of the current Directive, especially the poorly designed essential requirements for packaging and the difficulties in the Member States to enforce compliance with those requirements, revealed that harmonisation is necessary in the form of a Regulation, rather than revising the current Directive. To further promote the move to a low-carbon and circular economy and remove existing barriers to the smooth functioning of the internal market, a new comprehensive set of regulatory solutions is needed, including requirements which apply directly to businesses. The move to a Regulation is strongly supported by all business stakeholders, who emphasised the need for harmonised rules across the EU set out in a Regulation.

A Regulation will ensure obligations are implemented at the same time and in the same way in all 27 Member States. The same requirements for all market players will provide the necessary legal certainty and reduce distortion of competition, and send clear signals to non-EU market actors, when placing products on the EU market. Furthermore, the Commission will have a mandate to develop implementing measures to flesh out the Regulation further, where necessary, allowing for common rules to be set swiftly.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

#### **• Ex-post evaluations/fitness checks of existing legislation**

In 2014, a Fitness Check<sup>16</sup> identified weaknesses in the packaging essential requirements and recommended to make them “more concrete and easily enforceable” and “to strengthen essential requirements as a key tool to achieve better environmental performance of packaging”. However, the amendment of Directive 94/62/EC in 2018 did not yet address these weaknesses, but rather introduced three revision clauses: (1) to examine the feasibility of reinforcing the Essential Requirements with a view to, inter alia, improving design for reuse and promoting high quality recycling as well as strengthening their enforcement; (2) to examine the feasibility of setting quantitative targets on reuse of packaging and any further measures to promote reuse of packaging; and (3), to evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags (LPCBs) and to examine other possible ways to achieve this objective. The revision clauses were accompanied with the mandate on the Commission to present a legislative proposal on these issues, if appropriate.

In April 2020, the Commission published an evaluation Study on the Effectiveness of the essential requirements for packaging and packaging waste and proposals for reinforcement<sup>17</sup>. The main findings of the evaluation contributed to the problem definition and the initial set of measures for the impact assessment. Considering the outcome of this study, the Commission published an Inception Impact Assessment on 11 June 2020<sup>18</sup>.

This proposal includes measures addressing the issues identified in the Fitness check and the Evaluation study of 2020, as well as other measures identified during the impact assessment study and the related vast stakeholder consultation.

#### **• Stakeholder consultations**

The Impact Assessment accompanying the Packaging and Packaging Waste Directive 94/62/EC was subject to a thorough consultation of stakeholders to ensure that views from different organisation were presented and considered. In total, over 800 organisations were engaged with more than 1,800 contact points. Stakeholders were consulted through a combination of both public and targeted methods: inception feedback, public questionnaire, Member State questionnaire, online workshops and webinars, and one-to-one interviews.

These activities included a period during which it was possible to provide feedback on an Inception Impact Assessment (110 responses) and an Open Public Consultation<sup>19</sup> (425 responses). In addition, a targeted consultation exercise was carried out to further enhance the evidence base through the collection of more

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<sup>16</sup> European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD\_(2014)209

<sup>17</sup> <https://op.europa.eu/en/publication-detail/-/publication/05a3dace-8378-11ea-bf12-01aa75ed71a1>

<sup>18</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12263-Reducing-packaging-waste-review-of-rules\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12263-Reducing-packaging-waste-review-of-rules_en)

<sup>19</sup> Reducing packaging waste – public consultation [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12263-Reducing-packaging-waste-review-of-rules/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12263-Reducing-packaging-waste-review-of-rules/public-consultation_en)

specialized feedback from specific stakeholder groups. This was done, among others, via the organisation of several stakeholder workshops. In June 2021, six stakeholder webinars took place presenting interim results of the study followed by the possibility to send feedback. More than 950 persons (250 organisations) participated in these webinars and almost 100 organisations provided detailed feedback and position papers. An additional workshop took place on the 30th of May 2022 with 517 attendees and 50 stakeholders intervened. In parallel, both the consultant supporting the Commission's impact assessment and the Commission services have carried out further targeted consultations with Member State experts, stakeholders, NGOs and consumer associations.

The majority of stakeholders considered that technological, economic and social developments justified the creation of a new regulatory framework for packaging. They also agreed on the need for further harmonisation of existing rules and called for a European framework covering the whole life cycle of packaging and the entire value chain. They indicated that this framework should include stricter common rules on the sustainability of packaging ensuring the functioning of the EU internal market highlighting the need for common approach to defining packaging recyclability, in particular through the Design for Recycling criteria approach.

Specifically, industry representatives stressed the need for (i) a stable and harmonised legal framework that ensures security of investment; (ii) a level playing field that encourages the production of sustainable packaging; and (iii) the efficient functioning of recycling markets to improve the availability and the quality of secondary raw materials. Civil society representatives called for the effective implementation of the waste hierarchy in the packaging value chain, in particular arguing in favour of measures incentivising packaging and packaging waste prevention and reuse.

The detailed conclusions of the stakeholder consultations can be found in Annex 2 of the Impact Assessment.

- **Collection and use of expertise**

In addition to the stakeholder consultation, the following main sources of information were used to carry out the impact assessment:

To support the analysis of the different options, two support contracts were attributed to an external consultant, one for the 'Assessment of options for reinforcing the Packaging and Packaging Waste Directive's essential requirements and other measures to reduce the generation of packaging waste' and another study entitled 'Support to the finalisation of the legal proposal and the impact assessment for the review of the Packaging Directive, with new and updated policy measures and information for legislative drafting'. As part of these studies, 'Impact modelling methodology' and the 'Baseline Methodology' were developed. The 'Impact modelling methodology' is used to model the impacts of the proposed measures, i.e. to model the change in mass flows, financial costs, environmental and social (employment) impacts. The baseline provides an overview of packaging waste consumption, waste generation and management for EU27 Member States. It includes both historic trends based on existing data and future projections out to 2050. The baseline is essentially a "no policy change" scenario, i.e. modelling of future trends include all relevant EU-level and national policies and measures which are assumed to continue in force, in addition to any legislative proposal by the Commission that are not yet adopted. In addition, another supporting study was carried out by the Commission's Joint Research Centre (JRC) to analyse the impacts of measures that combine symbols on waste receptacles with matching labels on packaging (the latter part was developed by the two abovementioned studies).

The consultant and its experts have worked closely with the Commission services during the various stages of the study.

In addition to these supporting studies and reports, targeted interviews and responses obtained during the stakeholder consultation constituted an additional source of information. An in-depth consultation with the

Member States, which provided ad hoc contributions, was also carried out in order to collect data and comments.

Measures related to the plastic carrier bags were first identified in the ‘Study on the Implementation of the Plastic Bags Directive combined with the Scoping Study to assess the feasibility of further EU measures on waste prevention and implementation of the Plastic Bags Directive’<sup>20</sup>. Impact assessment of the proposed measures was assessed in the second Support study.

Finally, measures on compostable packaging build from the 2020 Study on the ‘Relevance of biodegradable and compostable consumer plastic products and packaging in a circular economy,’<sup>21</sup> which provided further inspiration also for the Communication from the Commission on EU Policy framework on bio-based, biodegradable and compostable plastics.

- **Impact assessment**

The proposal is based on an impact assessment. After taking into account the comments of the Regulatory Scrutiny Board in its negative opinion of 13 May 2022, the impact assessment received a positive opinion with reservations on the 30<sup>th</sup> September 2022. The comments have been addressed and the Impact Assessment Report has been appropriately modified and supplemented

The impact assessment includes 43 measures to address three main group of problems:

- (1) Growing packaging and packaging waste generation: total packaging waste generation in the EU has risen from 66 million tonnes in 2009 to 78.5 million tonnes in 2019 (19% growth, higher than GNI). Directive 94/62/EC has not been able to reverse this trend, despite express provisions on packaging minimisation. The growth trend has been accentuated by new consumption habits (e.g. on-the-go consumption, increased online sales and home deliveries). The annual production of packaging waste in 2018 was estimated at 173 kg per capita in the EU, an increase of 27 kg compared to 2009.
- (2) Barriers to packaging circularity, the second group of problems, include factors such as the increased use of packaging design features that prevent recycling, increased cross-contamination of compostable recycling streams, substances in packaging that may be hazardous and unclear labelling of packaging for sorting. As a result, the priority of reuse and recycling over recovery and landfill is not yet fully implemented.
- (3) The third group of problems concerns the low use of secondary raw materials in plastic packaging, which limits the EU's ability to reduce the use of virgin materials in new packaging. Market failures and shortcomings in the current regulatory framework hamper the profitability of recycling activities and weigh on the investment in technology and supply logistics needed to ensure that packaging is collected, sorted and recycled at a sufficiently high quality level.

In this context, the overall objectives of this legislative proposal are to reduce the negative environmental impacts of packaging and packaging waste, while improving the functioning of the internal market. The specific objectives are: (i) to reduce the generation of packaging waste; (ii) to promote a circular economy for packaging in a cost-effective manner; and (iii) to promote the use of recycled content in packaging.

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<sup>20</sup> Scoping study to assess the feasibility of further EU measures on waste prevention and implementation of the Plastic Bags Directive . Part II, Implementation of Plastic Bags Directive - Publications Office of the EU (europa.eu)

<sup>21</sup> Relevance of biodegradable and compostable consumer plastic products and packaging in a circular economy - Publications Office of the EU (europa.eu)



In the impact assessment, all possible measures were compiled for analysis based on three studies from an external consultant, stakeholder workshops, an Online Public Consultation, dedicated interviews and stated objectives and measures in the European Green Deal and CEAP (Annex 2 to the Impact Assessment (IA) Report). These measures were screened for criteria, such as whether they could be enforced, monitored etc (Annex 8.4. of the IA Report). After the screening, shortlisted measures were retained for further analysis (Annex 8.3 of the IA Report). The diverse, complex and often interrelated measures were then grouped into 3 policy options, which are compared to a business-as-usual scenario. There is a stepping up from option 1 to option 2 to option 3 in terms of their environmental effectiveness but also intrusiveness and burden of implementation. The options are:

- Option 1 contains the measures related to the better standardisation and clearer essential requirements. These measures tend to be pre-requisites for measures in other groups.
- Option 2 sets mandatory targets for waste reduction, reuse and minimum recycled content in plastic packaging, requirements to ensure full recyclability by 2030 and harmonised product rules
- Option 3 contains higher mandatory targets and additional product requirements.

The main policy choices for the decision makers in the three intervention areas are the waste reduction targets at Member State level, reuse targets for selected sectors set on the economic operators, measures to increase recyclability and targets for recycled content in plastic packaging. Out of the enabling measures, the mandatory establishment of deposit return systems and the labelling rules to facilitate consumers' sorting are the outstanding policy choices.

The measures contained in each option are presented in the table 3. In order to demonstrate the interlinkages between them, **alternatives measures** with the same number are marked **red**, e.g. **M2b** and **M2c**. **Complementary measures** are marked **green**, e.g. **M1+M5+M7** support **M2b**. Measures concerning the **main policy choices** are in **bold**.

The Commission favours a combination of options 1, 2 and 3 to provide a balanced packaging approach in terms of effectiveness (achievement of objectives) and efficiency (cost-effectiveness) while adapting to changing market conditions and providing ambitious support for the transition to a low-carbon and circular packaging economy.

Problem area	Intervention area	Option 1: Better standardisation & clearer Essential Requirements	Option 2: Mandatory targets and stricter requirements	Option 3: Far-reaching targets and requirements
High and growing packaging waste	Prevention and reuse	<b>M5: Minimization of empty space in packaging in selected sectors, including e-commerce</b> M1: Update of Essential Requirements to minimize over-packaging M10a: Revision of CEN standard for defining reusable packaging M19: providing clarity on the definition of reuse activity versus a "preparing for reuse" activity	<b>M8b: Mandatory reuse targets for selected packaging groups for 2030/2040 in selected sectors</b> +M19+M10a+M10b: Definitions and mandatory requirements for reusable packaging formats set in EU legislation and standards for some formats +M10c: Definition and mandatory standards for reuse systems <b>M7: Phase-out avoidable/unnecessary packaging</b> <b>M2b: Mandatory target of 19% reduction of packaging waste per capita in 2030 compared to the baseline</b> +M1+M5	<b>M8c: Mandatory high level targets to increase the reuse of packaging by 2030/2040 in selected sectors</b> +M10a+M10b+M10c+M19 <b>M2c: Mandatory target of 23% reduction of packaging waste per capita in 2030 compared to the baseline</b> +M1+M5+M7+M3: Banning by 2030 of heaviest packaging for selected items based on existing lighter alternatives
Barriers to packaging circularity	Recyclability and compostability	<b>M21a: All packaging shall be reusable or recyclable by 2030 - clarification of Essential Requirements and recyclability definition</b> +M21b: All reusable packaging must be recyclable as of 2030 <b>M22a: Qualitative definition of recyclable packaging</b> M28: Clarification of biodegradability and compostability and updates of respective Essential Requirements & standard EN 13432 <b>M29a: Allowing compostable and conventional plastics for selected packaging types</b> M37: Definition of Recycled Content and measurement method	<b>M22b: Definition of recyclable packaging based on design for recycling (DFR) criteria complemented by the recyclability assessment procedure and a negative list of non-recyclable packaging characteristics</b> +M21a+M21b+M22a+M23: Harmonisation of EPR Fee Modulation Criteria <b>M29d: Mandatory compostability for certain out of the selected plastics packaging types and for the remaining ones compostable or conventional plastics possible</b> +M28	<b>M22c: Quantitative definition of recyclable packaging</b> +M21a+M21b+M22a+M23 <b>M29b: Mandatory compostability for all selected plastics packaging types</b> +M28
Low level of recycled content	Recycled content	M37: Definition of Recycled Content and measurement method	<b>M35em: Broad targets for recycled content in plastic packaging based on contact sensitivity for 2030 and 2040</b> +M37	<b>M35eh: Higher ambition, broad targets for recycled content in plastic packaging based on contact sensitivity for 2030 and 2040</b> +M37
Enabling measures		Mx: Update of current material-based labelling: Removal of alphanumeric codes for waste sorters M31: Update of definitions concerning hazardous substances <b>M32a: Expanding the information on hazardous substances</b>	<b>Ma&amp;b: Mandatory DRS and minimum requirements for all DRS</b> <b>M27c-y: Harmonised labelling of products and waste receptacles to facilitate consumers' sorting</b> (advanced Nordic pictograms system)+ <b>Mx+Mk</b> : Restrictions on use of confusing labels M12-u: Harmonised, mandatory labelling for reusable packaging M38-j: Labelling criteria for Recycled Content <b>M32b: Notification of substances of concern in packaging</b> <b>+M33a: Restrictions of substances under REACH</b> <b>+M31</b> <b>M40b: Mandatory minimum GPP criteria for packaging of priority products and services</b> M42b: Harmonization of EPR reporting system MPCB: Extended reporting obligation on PCB	<b>Mc: Prioritized use of recycled packaging from DRS</b> <b>+Ma&amp;b</b> M26cc: Waste collection schemes alternative to DRS+Mx+M12-u+M38-j+M27c-y+Mk <b>M32c: Notification of all substances in packaging</b> <b>+M33b: Restrictions of substances under the reviewed PPWD</b> <b>+M31</b> <b>M40c: Mandatory minimum GPP criteria for packaging of all products and services</b> M34b: Mandatory reporting requirement for recycled content for all packaging +M42b + MPCB

- Regulatory fitness and simplification**

The proposed measures have different implications in terms of administrative burden. In the implementation of the measures, the administrative burden would mainly result from monitoring and reporting on compliance, both for public authorities and for businesses.

At the same time, this proposal makes full use of the digitalisation to reduce administrative burden. For example, it is envisaged that the Commission shall adopt an implementing act to establish the conditions for identifying the material composition of packaging by means of digital marking technologies. It is also envisaged that packaging shall bear QR code providing information concerning information on packaging reusability, the availability of system for re-use, collection points etc.

- Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

#### 4. BUDGETARY IMPLICATIONS

The European Commission, DG Environment (ENV), will be responsible for negotiating the Regulation through the regular co-decision procedure, as well as for its general implementation and adoption of all the implementing and delegated acts envisaged in the Regulation. In addition to DG Environment (ENV), this will include inputs from other services, including, in particular, Eurostat, the Joint Research Centre (JRC) and the European Chemicals Agency (ECHA).

The current financial simulations are based on three full-time equivalent Administrator (AD) grade posts only to carry out the (i) the negotiation and general implementation of the Regulation; and (ii) the different preparatory work for the drafting of the secondary legislation. The technical tasks are envisaged to be performed by two full-time equivalent seconded national experts (given the expected timeline) and two contractual agents. The staff costs in the Commission amount to a total cost of EUR 2 355 000 based on the latest update of the cost of Commission staff as reported on the DG BUDG.

#### 5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The proposal includes several provisions to allow for a better monitoring and understanding of the packaging flows; these will add to the existing calculation and reporting requirements under Commission Decision 2005/270/EC<sup>22</sup> and 2018/896/EC<sup>23</sup> from Member States to the Commission. These decisions will need to be replaced and amended to include additional reporting requirements necessary to support the monitoring and the full implementation of the substantive requirements related to (1) plastic carrier bags (i.e. disaggregated and mandatory reporting and different categories of plastic carrier bags), (2) the collection rate of packaging covered by the obligation to establish deposit and return systems, and (3) data related to specific packaging categories, which is necessary to establish the methodology for assessing recyclability of packaging.

To support monitoring of the Extended Producer Responsibility at the Member States level, and harmonise related requirements by Member States and make them more effective across the Union, this initiative furthermore proposes a registration requirement for economic operators (producers) and their producer responsibility organisations making available packaging for the first time on the market of a Member State. This goes along with harmonised reporting requirements of data on such packaging to the national authorities. This will reduce the administrative burden on producers who had to adapt to increasingly divergent national requirements on reporting under the extended producer responsibility obligations,

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<sup>22</sup> 2005/270/EC: Commission Decision 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, as last amended by Commission Implementing Decision (EU) 2019/665 of 17 April 2019 (consolidated version OJ L 112, 26.4.2019, p. 26–46)

<sup>23</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. 6–10 )

and allow Member States to meet their reporting obligations as outlined, providing for the necessary level of data granularity to allow for the future policy making, in particular, to adjust measures on the packaging recyclability.

It is proposed that the reporting of data on the reuse and refill targets is limited to the reporting from the obliged economic operators to the competent authorities; no additional reporting to the Commission is envisaged. The calculation rules will be adopted by the Commission in the secondary legislation.

#### • Detailed explanation of the specific provisions of the proposal

*Chapter I* contains General provisions.

*Article 1* lays down the subject matter and the scope of this Regulation. It explains that it establishes requirements on sustainability, labelling, minimum requirements for the extended producer responsibility, collection, treatment, recycling and reporting of packaging. The Regulation shall apply to all packaging placed on the market in the European Union and to all packaging waste. This Regulation shall apply without prejudice to existing requirements for packaging and without prejudice to Directive 2008/98/EC as regards the management of hazardous waste.

*Article 2* lays down the objectives of this Regulation, which are mainly to contribute to the efficient functioning of the internal market while preventing and reducing the adverse impacts of packaging and packaging waste on the environment and human health. In line with the waste hierarchy, as a first priority, the measures are aimed at limiting the amount of packaging placed on the market, reducing its volume and weight, preventing the generation of packaging waste, increasing the re-use of packaging, ensuring high quality recycling, reducing other forms of recovering packaging waste and its final disposal.

*Article 3* contains definitions, of which several definitions, which are necessary in view of the changed legal format, such as definitions of specific economic operators, and in particular that of ‘manufacturer’, the concepts of ‘making available on the market’ and ‘placing on the market’, and new notions related to the conformity assessment of packaging and market surveillance. Other new definitions were added to implement the main measures of this initiative with the focus on packaging waste prevention and reuse, use of recycled content in plastic packaging, ensuring a common understanding and setting up a common procedure for the assessment of the packaging recyclability etc. New definitions have been designed also for ‘e-commerce packaging’ whereas the existing definitions related to plastic carrier bags have been further specified.

*Article 4* lays down the principle of free movement on the single market for packaging which complies with the sustainability requirements and labelling requirements as laid down in this Regulation.

*Chapter II* contains sustainability requirements for packaging.

*Article 5* lays down restrictions on the use of substances of concern in packaging, in particular lead, cadmium, mercury and hexavalent chromium. In this regards, it also provides for the

Commission's possibility to amend or repeal the Commission Decisions 2001/171/EC<sup>24</sup> and 2009/292/EC<sup>25</sup>. It also lays down the principle that the procedure referred to in Article 133(4) of Regulation (EC) No 1907/2006 (REACH Regulation) shall be used in order to adopt new restrictions or amend current restrictions pursuant to Articles 68 to 73 of that Regulation.

*Article 6* requires packaging to be recyclable and sets out what requirements will need to be met in a two-stepped approach. As of 1/1/2030, packaging will have to comply with the design for recycling criteria and, as of 1/1/2035 the requirements will be further adjusted for packaging to be effectively collected, sorted and recycled to be considered as 'recycled at scale'. The criteria for the design of recycling and the methodology to assess if packaging is recycled at scale will be established in delegated acts to be adopted by the Commission. This article further lays down when packaging is considered as not recyclable. This will be the case where a packaging only qualifies for the lowest recyclability performance grade, as per a delegated act to be adopted by the Commission for the packaging categories and on the basis of parameters laid down in Annex II, Part 1. In case the Commission has not adopted such delegated act by 1 January 2027, by 1 January 2028 packaging, which presents features listed in the Annex II Part D, will be considered as not recyclable. This provision furthermore establishes the rule that financial contributions to be paid by producers to comply with their extended producer responsibility obligations shall be modulated based on the recyclability performance grades under the design for recycling criteria. Finally, specific rules are set for innovative packaging meeting the definition under Article 3, point 33, for which the recyclability requirements shall only be required to be documented 5 years from its first placing on the market. Finally, specific rules are set for innovative packaging, in order to ensure that the recyclability requirements do not stifle innovation in new packaging. Additionally, pharmaceutical immediate packaging meeting the definition of Article 1 of Directive 2001/83/EC is exempted from the recyclability requirements set up under this Article to take account of the human health and safety considerations.

*Article 7* requires that, as of 1 January 2030, plastic packaging shall contain certain minimum amount of recycled content recovered from post-consumer plastic waste, per unit of plastic packaging. These amounts shall increase by 1 January 2040. The Commission will adopt an implementing act to establish the methodology for the calculation and verification of the percentage of recycled content recovered from post-consumer plastic waste and the format for the related technical documentation. This provision also empowers the Commission to adopt delegated acts to amend the minimum percentage of recycled content recovered from post-consumer plastic waste.

*Article 8* defines conditions for packaging to be considered compostable and prescribes that filter coffee pods disposed together with the used coffee products, sticky labels attached to fruit and vegetables and very lightweight plastic carrier bags shall be compostable by 24

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<sup>24</sup> Commission Decision of 19 February 2001 establishing the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste (OJ L 62, 2.3.2001, p. 20–21)

<sup>25</sup> Commission Decision of 24 March 2009 establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste 9 OJ L 79, 25.3.2009, p. 44–46 )

months after the entry into force of this Regulation. Other packaging shall not be compostable with the exception of lightweight plastic carrier bags, for which a flexibility was granted to the Member States. It also empowers the Commission to adopt delegated acts to amend the list of packaging that need to be compostable.

*Article 9* requires that the weight, volume and layers of packaging shall be minimised with due account taken of the packaging's safety and functionality. Thresholds for sales packaging in certain sectors, grouped packaging and transport packaging are laid down. The compliance shall be proven by technical documentation, which shall include assessment under the performance criteria as set out in Annex IV of the Regulation. Compared to the current standard, the list of performance criteria no longer includes marketing and consumer acceptance. Finally, packaging designed to deceive consumers is forbidden.

*Article 10* lays down the requirements for reusable packaging. One of the requirements is e.g. that the packaging is conceived, designed and placed on the market with the objective to be re-used or refilled a maximum number of times. Reusable packaging must be also part of a system for re-use compliant with the minimum conditions as set out in Annex VII of this Regulation.

*Chapter III* lays down labelling, marking and information requirements.

*Article 11* requires that packaging is marked with a label containing information on its material composition in order to facilitate consumer sorting. The same labels shall be placed on waste receptacles for the consumer to easily identify the appropriate disposal route. Harmonized label shall be designed also to inform, at the choice of the manufacturer, about the recycled content in plastic packaging. Reusable packaging shall bear a QR code giving access to the relevant information facilitating its re-use. The Commission shall be empowered to, by implementing acts, establish harmonised labelling requirements and formats for packaging and waste receptacles as well as for identifying the material composition of packaging means of digital marking technologies.

*Article 12* lays down that waste bins intended for separate collection of packaging waste shall be equipped with a sorting label to help the consumer sort packaging waste. The sorting label on packaging shall enable the consumer to identify the correct waste bin for discarding the waste packaging.

*Chapter IV (Article 13)* provides that the Commission will set up a packaging forum consisting of packaging experts from industry, NGOs and consumer organisations. The purpose of the forum is to enable cooperation between various stakeholders with the Commission.

*Chapter V* lays down the obligations of economic operators.

*Articles 14, 16, 17, 18* lay down obligations of manufacturers, authorised representatives, importers and distributors. They are based on standard provisions from Decision 768/2008/EC<sup>26</sup>.

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<sup>26</sup> Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218,

*Article 14* requires that manufacturers ensure that packaging has been designed and manufactured according to the sustainability requirements as set out in Articles 5 to 10 and is appropriately labelled. For this purpose, they shall conduct the conformity assessment procedure before placing packaging on the market and draw up the EU declaration of conformity.

*Article 15* requires supplier of packaging or packaging material to provide the manufacturer with all the information and documentation necessary for manufacturer to demonstrate the conformity of the packaging.

*Article 19* concerns obligations of fulfilment service providers, namely ensuring that when they handle packaging, the conditions during warehousing, packaging, addressing or dispatching do not jeopardise the packaging's compliance with the sustainability requirements.

*Article 20* is a standard article from Decision 768/2008/EC, which lays down the two cases in which manufacturers' obligations apply to importers and distributors.

*Article 21* is a standard article from Decision 768/2008/EC on the identification of economic operators in the supply chain of packaging.

*Article 22* lays down that economic operators who delivers goods to end users in grouped, transport or e-commerce packaging shall ensure that the ratio of empty space in the packaging in relation to the packaged product(s) is maximum 40%.

*Article 23 and Annex VI* lay down that the economic operators should not place on the market packaging in the formats and for the purposes as listed in Annex VI.

*Article 24* requires that the economic operator who places reusable packaging on the market shall also set up a system for re-use for that packaging. The system shall comply with the details laid down in Annex VII to the Regulation.

*Article 25* requires economic operators who make use of reusable packaging to set up or participate in a system for re-use of such packaging and to recondition reusable packaging in compliance with the requirements in Annex VII.

*Article 26* requires economic operators who offer goods for purchase through refill to provide information for consumers and to ensure the compliance of refill stations with the requirements laid down in Annex VII, Part C.

*Article 27* lays down a number of targets on re-use and refill for different sectors and packaging formats. It allows Member States to establish exemptions from the obligation to meet the re-use and refill targets.

*Article 28* lays down the rules on the calculation of the attainment of the different re-use and refill targets laid down in Article 27. By 31 December 2028 the Commission shall adopt an implementing act establishing detailed calculation rules and the methodology regarding the targets laid down in Article 27 of this Regulation.

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13.8.2008, p. 82–128)

*Article 29* concerns reporting from the respective operators to the competent authority concerning the attainment of the re-use and refill targets laid out in Article 27. This article lays down the minimum requirement for this reporting.

*Chapter VI (Article 30)* concerns the obligation of Member States to take measures to achieve a target for the sustained reduction of consumption of lightweight plastic carrier bags. Their annual consumption cannot exceed 40 lightweight plastic carrier bags per person by the 31<sup>st</sup> December 2025. Member States can exclude very lightweight plastic carrier bags, which are required for hygiene purposes or provided as primary packaging for loose food to prevent food wastage.

*Chapter VII* on the conformity of packaging is mostly standard provisions on how to assess the conformity of packaging.

*Article 31* lays down that the performance of tests, measurements and calculations using reliable, accurate and reproducible methods shall ensure that the packaging complies with the sustainability and labelling requirements set out in Articles 5, 8, 9, 10, 11 and 25. The conformity with harmonised standards provides a presumption of conformity with the requirements in Articles 5, 8, 9, 10, 11 and 25.

*Article 32* lays down the possibility for the Commission to adopt common specifications where harmonised standards are not available. The conformity with common specifications provides a presumption of conformity with the requirements in Articles 5, 8, 9, 10, 11 and 25.

*Article 33 and Annex VIII* concern the performance of a conformity assessment procedure.

*Article 34* lays down that the fulfilment of the requirements set out in Articles 5 to 11 can be demonstrated by the EU declaration of conformity.

*Chapter VIII* concerns the notification of conformity assessment bodies and consists of standard provisions based on Decision 768/2008/EC, combined with targeted enhancements of those provisions to ensure legal clarity and further strengthen the independence, competence and monitoring of notified bodies.

*Chapter IX* concerns the management of packaging and of packaging waste.

*Section 1* of Chapter IX contains general provisions.

*Article 52* requires Member States to designate a competent authority for the implementation and enforcement of the obligations arising from Chapter IX, Article 27, paragraphs 1, 2, 3, 4, 6 and 7, as well as Article 28 and Article 29 and Article 30.

*Article 53* contains the Commission's obligation to draft an early warning report, in cooperation with the European Environment Agency, concerning the progress towards the attainment of the targets laid down in Articles 55 and 63. It also lays down requirements for the content of this report.

*Article 54* requires Member States to introduce a chapter on the management of packaging and packaging waste to their waste management plans required pursuant to Article 28 of Directive 2008/98/EC.

*Section 2* of Chapter IX contains waste prevention.

*Article 55* requires Member States to reduce by 5 % the packaging waste generated per capita by 2030 as compared to the packaging waste generated per capita in 2018, and by 10% by 2035. The Member States shall implement measures, such as economic instruments and other measures, to provide incentives for the application of the waste hierarchy, in order to prevent the generation of packaging waste and to minimise the environmental impact of packaging.



*Section 3* of Chapter IX regulates the register of producers and extended producer responsibility.

*Article 56* requires Member States to establish a register that proves the compliance of producers of packaging with the requirements of Chapter IX. It further lays down the requirements of this register and the registration procedure. Producers are obliged to register in such a register. If a producer responsibility organisation as provided under Article 58(1) was appointed by a producer, the obligation to register will be transferred to that organisation. This obligation can also be assigned to an authorised representative for the EPR. Producers who are not registered, shall not make available packaging on the market of a Member State.

*Article 57* lays down that producers, who make available packaging on the market for the first time within the territory of a Member State, shall have extended producer responsibility for their packaging in compliance with the requirements of Article 8 and Article 8a of Directive 2008/98/EC.

*Article 58* concerns producer responsibility organisations. A producer can transfer the extended producer responsibility obligations to a producer responsibility organisation that is authorised in accordance with Article 59. Where multiple producer responsibility organisations exist, it has to be ensured that the whole territory of the Member State is covered by the producer responsibility organisations.

*Article 59* requires that producers or an appointed producer responsibility organisation apply for an authorisation from the competent authority.

*Section 4* of Chapter IX concerns the return, collection and deposit return system.

*Article 60* requires Member States to ensure that systems are set up to provide for the return and/or collection of all packaging and packaging waste from the consumer, other final user, or from the waste stream.

*Article 61* requires a deposit and return system for single use plastic beverage bottles with the capacity of up to three litres and single use metal and aluminium beverage containers with a capacity of up to three litres. Furthermore, it lays down exemptions to this rules. [By 1 January 2028], Member States shall ensure that the deposit and return systems meet the criteria listed in Annex XI. Member States are allowed to include also glass into the DRS and should ensure that DRS for single use packaging formats, in particular for single use glass beverage bottles, where technically and economically feasible, are equally available for reusable packaging.

*Section 5* of Chapter IX concerns re-use. *Article 62* requires Members States to take measures to encourage the increase of systems to enable re-use. Such measures can be e.g. the use of deposit-return systems for packaging which is not covered by the deposit-return systems mandated by Article 61.

*Section 6* of Chapter IX concerns recycling.

*Article 63* lays down recycling targets of packaging waste to be met by the Member States by 31 December 2025 and by 31 December 2030. These targets are not new compared to Directive 94/62/EC. If Member States postpone the deadlines for attaining targets for 2025, they are obliged to submit an implementation plan in accordance with Annex XII. The Commission can request a Member State to revise that implementation plan. No sooner than 8 years after the date of application of this Regulation, the Commission shall review the targets with a view to maintaining or, if appropriate, increasing them, or setting further targets.

*Article 64* lays down the rules on calculation of the attainment of the recycling targets laid down in Article 63(1), such as calculating the weight of packaging waste generated and

recycled in a given calendar year, that the packaging waste recycled shall be measured when the waste enters the recycling operation and at what point packaging waste may be counted as recycled. Member States are obliged to establish an effective system of quality control and traceability of the packaging waste. It further concerns the calculation of packaging waste that was sent to another Member State and requires that waste exported from the Union counts towards the attainment of the targets only under certain requirements. These calculation provisions are not new compared to Directive 94/62/EC.

*Article 65* allows Member State to decide to attain an adjusted level of the targets referred to Article 63(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging. It further lays down the calculation methods. These calculation provisions are not new compared to Directive 94/62/EC.

*Section 7* of Chapter IX concerns information and reporting.

*Article 66* requires producers or producer responsibility organisations to make available information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State. This article contains a list with the obligatory information to be supplied.

*Article 67* concerns reporting from the Member States to the Commission. Member States shall report to the Commission, for each calendar year, on the attainment of the recycling targets, consumption of very lightweight, lightweight and thick plastic carrier bags, as well as on the collection rate of packaging covered by the obligation to set up deposit and return systems. . The Commission shall replace Decision (EU) 2018/896 and Decision 2005/270/EC to include these items. Finally, to enable the Commission to set up the methodology to measure if packaging is recycled at scale, Member States shall report on the packaging placed on the market and recycling rates for packaging formats/types as indicated in Table 3, Part 3, of Annex II.

*Article 68* concerns rules on databases on packaging and on the information to be contained therein.

*Chapter X* concerns safeguard procedures and is based on standard provisions.

*Article 69* sets out the procedure to be followed by a national market surveillance authority where it considers that a packaging presents a risk for the environment or human health. In such case, the national market surveillance authority must initiate a procedure informing other market surveillance authorities of the measures taken (prohibition or restriction on making the packaging available, withdrawal or recall).

*Article 70* lays down the Union safeguard procedure to be used if a Member State or the Commission disagrees with a measure taken at national level under the safeguard procedure set out in Article 69.

*Article 71* lays down the procedure to follow in case packaging that presents a risk to the human health or to the environment.

*Article 72* concerns the particular case where a case of non-compliance relates to a formal obligation of an economic operator.

*Chapter XI (Article 73)* concerns green public procurement and, more specifically, the possibility for the Commission to adopt delegated acts to establish requirements applicable to public contracts (e.g. technical specifications, selection criteria, award criteria, etc.), based on the packaging parameters listed in annex to this Regulation.

*Chapter XII* is a standard chapter with articles on delegated acts (Article 74) and on implementing acts (Article 75).

*Chapter XIII* sets out amendments to Regulation (EU) 2109/1020.

*Chapter XIV* is a standard chapter on final provisions, with articles on penalties (Article 77), on carrying out an evaluation of the Regulation 8 years after adoption (Article 78), and on repeal and transitional provisions (Article 79).

*Annex I* contains illustrative examples for the criteria referred to in Article 3, point (1), indents (i), (ii) and (iii).

*Annex II* regards recyclability.

*Annex III* refers to compostable packaging.

*Annex IV* contains performance criteria related to packaging minimisation.

*Annex V* contains templates for minimisation documentation.

*Annex VI* refers to details on restrictions on use of packaging formats

*Annex VII* contains requirements specific to the systems for re-use and refill stations

*Annex VIII* reproduces the standard conformity assessment module referred to in Article 33 (from Decision 768/2008/EC).

*Annex IX* reproduces the standard EU declaration of conformity.

*Annex X* contains information for registration and reporting to the register referred to in Article 56.

*Annex XI* contains a list of elements to be included in the implementation plan.

*Annex XII* contains minimum requirements for deposit and return systems.

*Annex XIII* contains lists of data to be included by Member States in their databases on packaging and packaging waste.

*Annex XIV* contains a correlation table between the provisions of Directive 94/62/EC and the current Regulation.

Proposal for a

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

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee<sup>27</sup>,

Having regard to the opinion of the Committee of the Regions<sup>28</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) All goods need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. It is key for the functioning of the internal market for goods to prevent barriers to the internal market for packaging. Not-fully-harmonised provisions and vague requirements are causing additional cost to the economic operators.
- (2) In addition, packaging is a key user of virgin materials (40% of plastics and 50% of paper use in the EU is for packaging) and represents 36% of municipal solid waste.<sup>29</sup> High and constantly growing levels of packaging generated as well as low levels of re-use and poor recycling stand in the way of achieving a low-carbon circular economy.
- (3) The European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste<sup>30</sup> sets up requirements for Member States on packaging, such as ensuring compliance of packaging with the essential

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<sup>27</sup> OJ C [...], [...], p. [...].

<sup>28</sup> OJ C [...], [...], p. [...].

<sup>29</sup> Eurostat, Packaging waste statistics: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging\\_waste\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics)

<sup>30</sup> OJ L 365, 31.12.1994, p. 10

requirements, which relate to the composition of packaging and its reusable and recoverable nature, and to meet recovery and recycling targets.

- (4) In 2014, a Fitness Check relating to this Directive<sup>31</sup> recommended to make the essential requirements “more concrete and easily enforceable” and to strengthen them, as a key tool to achieve better environmental performance of packaging.
- (5) In line with the Green Deal<sup>32</sup>, the new Circular Economy Action Plan (CEAP)<sup>33</sup> commits to reinforcing the essential requirements for packaging in view of making all packaging reusable or recyclable by 2030, and to consider other measures to reduce (over)packaging and packaging waste, drive design for re-use and recyclability of packaging, reduce the complexity of packaging materials and introduce requirements for recycled content in plastic packaging. It commits the Commission to assess the feasibility of EU-wide labelling that facilitates the correct separation of packaging waste at source.
- (6) Plastic packaging is the most carbon intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately 5-times better than incineration with energy recovery<sup>34</sup>. Just as the European Strategy for Plastics<sup>35</sup>, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics.
- (7) The Council in its Conclusions of December 2020<sup>36</sup> underlined that the revision of the Directive on packaging and packaging waste should update and establish more concrete, effective and easy to implement provisions to foster sustainable packaging in the internal market and minimise the complexity of packaging in order to foster economically feasible solutions, to improve the reusability and recyclability as well as minimise substances of concern in packaging material, especially with a view to food packaging materials, and to provide for . labelling packaging in an easily understandable way to inform consumers about its recyclability and where its waste must be discarded to facilitate recycling.
- (8) The European Parliament’s Resolution of 10 February 2021 on the New Circular Economy Action Plan<sup>37</sup> reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and

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<sup>31</sup> European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209

<sup>32</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN>

<sup>33</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc\\_id=Twitter](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter)

<sup>34</sup> Amadei A., Ardente F., Garcia-Gutierrez P., Klenert D., Nessi S., Tonini D., Tosches D., Saveyn H. (2022), Environmental and economic assessment of plastic waste recycling, Mechanical, physical and chemical recycling technologies, publication pending

<sup>35</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A European Strategy for Plastics in a Circular Economy COM(2018)28 final

<sup>36</sup> <https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf>

<sup>37</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html)

minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use.

- (9) In order to meet these commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to replace Directive on Packaging and Packaging Waste (94/62/EC) with a Regulation establishing requirements on packaging over its entire life-cycle.
- (10) This Regulation should apply to all packaging placed on the market in the European Union and to all packaging waste, regardless of the type of packaging or the material used. For reasons of legal clarity it should define ‘packaging’ by setting out a number of criteria, which are to be further illustrated with examples.
- (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 by consumers in practice regarding tea bags and filter coffee pods disposed together with the used coffee product leading to contamination of compostable and recycling streams and the objective to increase the separate collection of bio-waste, as required by Article 22 of Directive 2008/98/EC, it is necessary to provide for an exception for such items and treat them to be packaging.
- (12) In line with the waste hierarchy, the measures under this Regulation aim at reducing the amount of packaging placed on the market in terms of its volume and weight, and preventing the generation of packaging waste, especially through increasing the re-use of packaging. As additional fundamental principles, the measures aim at increasing the use of recycled content in packaging, especially in plastic packaging where the uptake of recycled content is very low, as well as high quality recycling of all packaging and at reducing other forms of recovering packaging waste and its final disposal.
- (13) Packaging should be designed, manufactured and commercialised in such a way as to permit its re-use or high-quality recycling, and to minimise its impact on the environment during its entire life-cycle and the life cycle of products, for which it was designed.
- (14) In order to align the scope of the substances in packaging addressed under this Regulation with the scope of the Chemicals Strategy for Sustainability<sup>38</sup> and the Eco-design for Sustainable Products Regulation<sup>39</sup>, the term ‘noxious and other hazardous substances’ should be replaced by ‘substances of concern’. In line with the objectives

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<sup>38</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.

<sup>39</sup> [https://ec.europa.eu/info/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/sustainable-products/ecodesign-sustainable-products\\_en](https://ec.europa.eu/info/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/sustainable-products/ecodesign-sustainable-products_en)

of the Circular Economy Action Plan<sup>40</sup> and the Chemicals Strategy for Sustainability, and to ensure the sound management of chemicals through their life cycle and the transition to a toxic-free and circular economy, the scope of the objectives of this Regulation should address impacts on human health and on the environment resulting from impacts of substances of concern on the whole life cycle of packaging, from manufacture to use and end-of life, including, waste management.

- (15) Taking into consideration the scientific and technological progress, packaging should be designed and manufactured in a way as to limit the presence of heavy metals and other substances of concern in its composition. The most harmful substances shall ultimately be phased-out in the EU for packaging for consumer products. Substances of concern as constituents of the packaging material or of any of the packaging components shall 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>41</sup>, EU 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 the REACH and CLP<sup>42</sup> Regulations 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 of concern in packaging and packaging components should therefore primarily be restricted at source and addressed under Regulation (EC) No 1907/2006 in order to protect human health and the environment, including as regards the presence of such substances in waste.
- (17) Thus, in addition to the restrictions, set out in Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>43</sup>, it is appropriate to maintain restrictions for lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components.

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<sup>40</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>41</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>42</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>43</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).

- (18) Exceptions to the concentration levels of substances of concern are established in Commission Decision 2001/171/EC of 19 February 2001 establishing the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste<sup>44</sup> and Commission Decision 2009/292/EC of 24 March 2009 establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging<sup>45</sup>. The Commission should assess whether these are still justified, and therefore 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 in respect of amending restrictions on substances of concern in packaging or repealing them.
- (19) Data from Eurostat and market data reports<sup>46</sup> show increased use of packaging design characteristics that may inhibit recycling. Packaging is 'unrecyclable' when it is not separately collected or it poses challenges for most sorting systems and recycling systems. From 2012 till 2020, the share of unrecyclable packaging has grown significantly, often in parallel with the effort to lightweight packaging. Technically recyclable packaging is often not recycled because the processes needed for its collection, sorting and recycling can be costly and inefficient, associated with relatively low quality and quantity of output and a lack of sufficient demand in end markets.
- (20) Preliminary results of the upcoming Commission's second Early Warning Report show that many Member States are struggling to meet the existing recycling targets under Article 6 of the Packaging and Packaging Waste Directive.
- (21) It is generally recognised that designing packaging with the objective of its recycling, once it become packaging waste, is one the most efficient measures to improve the packaging circularity and raise packaging recycling rates.
- (22) Packaging design for recycling criteria have been established for a number of packaging formats as voluntary industry schemes or by some Member States for the purpose of eco-modulating the producer responsibility fees. In order to prevent barriers to the internal market and provide industry with an equal level playing field, in addition to fostering the sustainability of packaging, the criteria and the methodology for assessing packaging recyclability based on the design for recycling methodology should be harmonised at the EU level and made mandatory.
- (23) 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 in practice of packaging based on quantities of packaging waste per specific packaging categories identified, that are collected,

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<sup>44</sup> OJ L 62, 2.3.2001, p. 20.

<sup>45</sup> OJ L 79, 25.3.2009, p. 44

<sup>46</sup> Transparency Market Research (2018) Packaging Market - Europe Industry Analysis, Size, Share, Growth, Trends and Forecast, 2018 – 2026, December 2018.



sorted and recycled in Member States representing 75% of the EU population. Additional reporting requirements from Member States should be provided in order to establish the recycled “at scale” thresholds per packaging categories.

- (24) In order to establish harmonised provisions, the Commission should be empowered to adopt delegated acts setting out detailed criteria for packaging design for recycling per packaging categories as set out in the Annex to this Regulation, as well as for the assessment of packaging recyclability at scale. In order to give industry and Member States sufficient time to collect and report the necessary data to set out the “at scale” recycling methodology, the manufactures should ensure that packaging is recycled at scale as of 2035. This will ensure that packaging not only complies with the design for recycling criteria, ensuring its technical recyclability on the basis of best available technologies for sorting and recycling<sup>47</sup> and assuming it is separately collected, but can actually be recycled, because there is sufficient capacity for sorting and recycling in the EU.
- (25) To ensure that by 2030, all packaging placed on the EU market is recyclable, and in case the Commission has not adopted a delegated act setting out design for recycling criteria by 1 January 2027, general packaging characteristics that prevent or inhibit recycling should be defined. These should apply until such delegated act defining recyclability requirements is adopted, and if not otherwise specified therein.
- (26) 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 to comply with the recyclability requirements.
- (27) To protect human health and safety, it is appropriate to exempt from the recyclability requirements pharmaceutical immediate packaging as defined in Article 1 of Directive 2001/83/EC on the Community code relating to medicinal products for human use<sup>48</sup>, which is in direct contact with the medicinal product. This exemption should apply until 1 January 2035.
- (28) Some Member States are taking action to encourage recyclability of packaging through eco-modulation of producer responsibility fees; such initiatives taken at the national level only may create regulatory uncertainty for the economic operators, in particular where they supply packaging in several Member States. It is therefore appropriate to harmonise criteria for the eco-modulation of EPR fees based on the 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, for which the detailed rules should be established through delegated acts, it is appropriate to empower the Commission to adopt such

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<sup>47</sup> Best Available Technologies ensure that packaging shall be recyclable in an economically viable way, as it is set in the Circular Economy Action Plan.

<sup>48</sup> OJ L 311, 28.11.2001, p. 67, as last amended by Directive (EU) 2022/642 of the European Parliament and the Council of 12 April 2022

harmonised criteria at the same time as establishing the detailed design for recycling criteria per packaging categories.

- (29) To ensure packaging circularity, packaging should be designed and manufactured in such a way as to allow 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 a more resource-efficient use of materials. In relation to the different packaging materials, the lowest input of recycled materials is in plastic packaging. It is therefore appropriate 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>49</sup> of different plastic packaging applications, and become binding by 2030. Increased targets should apply as of 2040. For the other materials, 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 will monitor closely the use of recycled content in packaging materials other than plastics.
- (30) In order to prevent barriers to the internal market and ensure efficient implementation of the obligations, recycled content targets should be set on economic operators rather than on the Member States. In addition, the 2030 recycled

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<sup>49</sup> Contact sensitive packaging refers to plastic packaging of products covered by 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), 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 (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 (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), Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1), Regulation (EC) No 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 (EU) 2019/4 of the European Parliament and of the Council of 11 December 2018 on the manufacture, placing on the market and use of medicated feed, amending Regulation (EC) No 183/2005 of the European Parliament and of the Council and repealing Council Directive 90/167/EEC (OJ L 4, 7.1.2019, p. 1), Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43) 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).

content target as set in the Single Use Plastics Directive<sup>50</sup> for plastic bottles, which is currently set at 30% - on the level of the Member States – should be increased to 50% and set directly on the economic operators. This will facilitate the implementation of the recycled content obligations under the Single Use Plastics Directive at the level of the Member States.

- (31) In order to ensure a uniform calculation and verification methodology for the percentage of recycled content recovered from post-consumer plastic waste, per unit of plastic packaging, and the format for technical documentation, the Commission should be empowered to adopt the implementing provisions.
- (32) In order to take into account the risks related to the supply of a specific plastic waste or excessive prices, 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 in respect of temporarily amending the targets. In evaluating the justification of such request, the Commission should assess well-reasoned requests from natural and legal persons.
- (33) In order to ensure uniform conditions for the implementation of the rules on calculating and verifying, per unit of post-consumer plastic waste, the share of recycled content recovered from post-consumer plastic waste present and the information requirements for technical documentation, 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 in respect of the share of recycled content recovered from post-consumer plastic waste present and the information requirements for technical documentation.
- (34) 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 also to establish minimum percentages of recycled content in packaging materials other than plastic, if there is evidence, on the basis of technology and market availability, that the potential for the inclusion of recycled content in packaging from such materials is not sufficiently used.
- (35) The cross-contamination of the conventional and compostable plastic packaging waste leads to lower quality of the resulting secondary raw materials and should be prevented at source. While the use of compostable plastic materials is projected to increase, consumers are increasingly confused as to the proper disposal route for compostable plastic packaging. It is therefore necessary to set clear rules on compostable packaging mandating the use of such material, in particular plastic, only when their use brings a clear benefit for the environment or human health. This is particularly the case when the use of such materials helps collect or dispose of bio-waste.

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<sup>50</sup> Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1–19)

- (36) For limited packaging applications made of plastic polymers there is a demonstrable environmental benefit of using packaging, which is compostable in controlled conditions in bio-waste plants. Furthermore, a limited flexibility in deciding whether to mandate the use of compostable plastics for lightweight plastic carrier bags should be preserved to Member States where appropriate waste collection schemes and waste treatment infrastructures are available in their territories.
- (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 accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the list of compostable packaging.
- (38) The existing harmonized standard no. 2000:13432 “Packaging - Requirements for packaging recoverable through composting and biodegradation – Test scheme and evaluation criteria for the final acceptance of packaging” should be updated to ensure that the latest scientific and technological development are taken into account and to ensure that the standard taken into account the actual conditions in bio-waste treatment facilities.
- (39) All compostable packaging constituting a food contact material should meet the requirements set out in the Regulation (EC) No 1935/2004 of the European Parliament and of the Council<sup>51</sup>.
- (40) Packaging should be manufactured so as to minimise its volume and weight while maintaining its ability to perform the core packaging functions. Compliance with this requirement should be ensured by identifying the critical areas, which prevent further packaging minimisation, under the key performance criteria, as listed in Annex IV of this Regulation. In view of the objective of this Regulation to reduce packaging and packaging waste and improve its circularity, the list of performance criteria should be modified compared to the existing harmonised standard EN 13428:2000<sup>52</sup>. Thus, while marketing and consumer acceptance remain packaging functions, they should not justify on their own additional packaging weight and volume. On the other hand, the use of recycled content and re-use may well necessitate additional material, so these two performance criteria should be added. Packaging with double walls, false bottoms and other means to create the impression of increased product volume should not be placed on the market, as it does not meet the packaging minimization criteria. The same rule should apply to superfluous packaging not fulfilling a function, such as cardboard boxes for toothpaste or other cosmetics.
- (41) The use of excessive void space is a recurrent problem for some packaging formats and a major cause of increasing amounts of packaging waste. Therefore, mandatory thresholds should be established for certain packaging types and in certain sectors,

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<sup>51</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 (OJ L 338 13.11.2004, p. 4).

<sup>52</sup> Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction

where excessive void space is of significant concern. Such measurable thresholds should improve the enforceability of this sustainability requirement. Furthermore, misleading packaging with double walls, false bottoms and other means to create the impression that the product volume is greater, should be forbidden.

- (42) To prevent packaging waste and promote the circularity and sustainable use of packaging, reusable packaging and systems for re-use should be incentivised. For this purpose, it is necessary to clarify the notion of reusable packaging, which should be linked not only to the packaging design, which should enable a maximum number of trips or rotations, but also to the setting up of systems for re-use respecting minimum requirements as set out in the Annex of this Regulation. The Commission should be mandated to request, as appropriate, the preparation of European standards, which define reusable packaging formats, as well as standards on systems for re-use and the related hygiene requirements.
- (43) To facilitate consumer sorting and disposal, a system of harmonised mandatory symbols should be introduced to be placed both on packaging and on waste receptacles, thus allowing consumers to pair the symbols at point of disposal. The symbols should enable consumers to properly sort packaging waste to enable appropriate waste management and provide consumers with information about the composting properties of such packaging, in particular to avoid home-composting. This approach will allow to improve the separate packaging waste collection, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems while respecting the principles of subsidiarity and proportionality. 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 these symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging. In view of the new system, the marking based on Commission Decision 97/129/EC<sup>53</sup> indicating the nature of the packaging materials, should be discontinued while giving the economic operators sufficient time to adapt after the entry into force of the new labelling provisions under this Regulation.
- (44) In order to further improve waste sorting, the Commission shall be empowered to adopt an implementing act to establish the conditions for identifying the material composition of packaging by means of digital marking technologies.
- (45) Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers are required to meet recycled content targets and they might want to put this information on their packaging, as this is currently the practice for some of them. To ensure that this information is communicated in a harmonised manner across the EU, a label to indicate the recycled content should be harmonised.

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<sup>53</sup> Commission Decision of 28 January 1997 establishing the identification system for packaging materials pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste (OJ L 50, 20.2.1997, p. 28–31)

- (46) In order to inform about the fact that a packaging is placed on the market to be reused, such packaging should bear a QR code providing information on its reusability, availability of system for re-use and location of collection points; QR code shall also facilitate tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale. Economic operators should be allowed to provide additional information or symbols specific to their unique system for re-use, either on-pack or digitally, as these may be key to making such a system work in practice.
- (47) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonized labels have been established under this Regulation or in the related implementing acts. Packaging included in the extended producer responsibility scheme may be identified by means of an accreditation symbol throughout the territory of that system. This symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability of packaging. To this end, it is considered that the symbol “green dot” is likely to mislead consumers.
- (48) The Commission should be empowered to adopt implementing acts to establish detailed harmonized specifications for the labelling requirements and formats established under this Regulation.
- (49) An expert group should be set up with a balanced participation of Member States’ representatives and all interested parties involved with packaging, such as waste treatment industry representatives, manufacturers and packaging suppliers, distributors, retailers, importers, SMEs<sup>54</sup>, environmental protection groups and consumer organisations. This group should be referred to as the “Packaging Forum” and it should contribute in particular to preparing, developing and further detailing the sustainability requirements, examining the effectiveness of the established market surveillance mechanisms and assessing any self-regulatory measures.
- (50) Economic operators should be responsible for compliance of packaging with the requirements under this Regulation, in relation to their respective roles in the supply chain to ensure the free movement of packaging on the internal market and to improve its sustainability. Economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market packaging which is in conformity with this Regulation.
- (51) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure. Conformity assessment should therefore remain solely the obligation of the manufacturer.
- (52) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market comply with this Regulation, whether imported as self-standing packaging or in a packaged product.

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<sup>54</sup> As defined in Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36)

In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Provision should therefore be made for importers to ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.

- (53) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered trade mark as well as their postal address and, where available, electronic means of communication through which it can be contacted. Exceptions should be provided for in cases where the packaging does not allow for such indications.
- (54) As the distributor makes a packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with the requirements of this Regulation.
- (55) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the product concerned.
- (56) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a product in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.
- (57) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.
- (58) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations should be set on economic operators in terms of empty space ratio to be achieved when using such packaging. Economic operators using sales packaging as e-commerce packaging, should be exempted from this obligation to promote packaging waste prevention.
- (59) In order to prevent unnecessary or avoidable packaging, such as single use packaging, for which viable reusable alternatives exist, or grouped plastic packaging used to incentivize consumption, economic operators should not be allowed to place on the market such packaging.
- (60) In order to limit the risk that packaging marketed as reusable is not re-used in practice reusable packaging and to ensure consumers' return of reusable packaging, economic operators should be obliged to ensure that a system for re-use, allowing such packaging to circulate, is in place. To ensure maximum benefits of such systems, minimum requirements should be laid down for open loop and closed loop systems.

- (61) Reusable packaging has to be safe for its users. Therefore, economic operators offering their products in reusable packaging have to ensure that, before the reusable packaging is used again, it is subject to a reconditioning process, for which requirements should be laid down.
- (62) Reusable packaging becomes waste, in the sense of the Article 3(1) of Directive 2008/98/EC, when its holder discards it, intends to discard it or is obligated to discard it. Reusable packaging in a reconditioning process is normally not considered to be waste.
- (63) To incentivise waste prevention, a new concept of ‘refill’ should be conceived as a specific waste prevention measure that counts towards 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.
- (64) Where economic operators offer the possibility to purchase goods through refill, they should ensure that their refill stations meet certain requirements in order to ensure the health and safety of consumers. As in this context consumers use their own containers, the economic operators should inform about the conditions for safe use. In order to encourage refill, economic operators should not provide packaging free of charge at the refill stations.
- (65) In order to reduce the increasing proportion of packaging that is single use and the growing amounts of packaging waste generated, quantitative re-use and refill targets on packaging should be established in sectors, which have been assessed as having the greatest potential, 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 fulfilment of the functional requirements in terms of containment, tidiness, health, hygiene and safety. The setting of the targets is expected to support the innovation and increase the proportion of re-use and refill solutions. Regarding food and beverages filled and consumed within the premises in the HORECA sector, the use of single use packaging should not be allowed. At the same time, single use options may be still used where it is beneficial from the life-cycle perspective.
- (66) To increase their effectiveness and equal treatment of economic operators, the re-use and refill targets should be placed on the economic operators. They should be calculated as a percentage of sales in reusable packaging within a system for re-use or through refill or, in case of transport packaging, as a percentage of uses. The targets should be material neutral. In order to ensure uniform conditions of their implementation, the Commission should be empowered to adopt an implementing act on the methodology for their calculation.
- (67) Certain uses of single use transport packaging formats are not necessary, as there is a wide range of well-functioning reusable alternatives. Therefore, economic operators, when transporting goods between different sites of the same economic operator or between the economic operator and the linked or partner enterprises, should use only reusable transport packaging with respect to packaging formats such as pallets, boxes, crates, intermediate bulk containers or drums. The same obligation should apply to economic operators transporting goods within one Member State.
- (68) Achieving re-use and refill targets can be particularly challenging for smaller economic operators. Therefore, Member States are entitled to introduce exemptions



from the obligations to meet the targets, or some of them, for defined groups of final distributors. The exemptions can be based on the volume of packaging placed on the market, number of employees or surface of the sales area. Member States should notify such exemptions to the Commission.

- (69) To enable the verification of compliance with the re-use and refill targets, it is necessary that the respective economic operators report back 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.
- (70) A labelling system based on the material composition of packaging for sorting of waste should be established , and paired with corresponding labels on waste receptacles, in order to inform consumers on how to appropriately dispose of packaging waste, including compostable lightweight plastic carrier bags.
- (71) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 on plastic carrier bags<sup>55</sup>. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other classes of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements.
- (72) In view of the results of the evaluation study on plastic carrier bags<sup>56</sup>, further measures need to be taken to reduce the consumption of lightweight plastic carrier bags and assess possible substitution effects with very lightweight plastic carrier bags and thicker plastic carrier bags above 50 microns.
- (73) The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory may include the use of national reduction targets, maintaining or introducing economic instruments as well as marketing restrictions, provided that these restrictions are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of their composting properties, durability or specific intended use.

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<sup>55</sup> Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015 amending Directive 94/62/EC as regards reducing the consumption of lightweight plastic carrier bags (OJ L 115, 6.5.2015, p. 11–15)

<sup>56</sup> Scoping study to assess the feasibility of further EU measures on waste prevention and implementation of the Plastic Bags Directive. Part II, Implementation of the Plastic Bags Directive, Eunomia (2021), published by the Publication Office of the European Union, 2022

- (74) In order to ensure the effective and harmonised application of sustainability requirements set under this Regulation, compliance with those requirements should be measured using reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art methods.
- (75) In order to ensure that there are no barriers to trade on the internal market, requirements on packaging sustainability, including on substances of concern in packaging, compostable packaging, packaging minimisation, reusable packaging and systems for re-use, should be harmonised at Union level. In order to facilitate conformity assessment with such requirements, including methods for tests, measurement or calculation, it is necessary to provide for presumption of conformity for packaging and packed products which are in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements, especially that the life-cycle of packaging and packaged products, reflect the average range of consumer behaviour and be robust in order to deter intentional and unintentional circumvention.
- (76) In the absence of harmonised standards, recourse to common specifications should be used as a fall back solution to facilitate the manufacturer's obligation to comply with sustainability requirements, for instance where there are undue delays in establishing a harmonised standard. In addition, recourse to this solution should be possible where the Commission has restricted or withdrawn the references to relevant harmonised standards in line with Article 11(5) of Regulation (EU) No 1025/2012. Compliance with common specifications adopted by the Commission through implementing acts should also give rise to the presumption of conformity.
- (77) To ensure coherence with other Union law, the conformity assessment procedures should be chosen from among the internal production control module included in this Regulation and the modules included in Decision No 768/2008/EC of the European Parliament and of the Council<sup>57</sup>, ranging from the least stringent to the most stringent depending on the level of risk involved and the level of safety required.
- (78) CE marking on packaging should not indicate compliance of the packaging with the requirements of this Regulation but only indicate compliance of the packaged product with the applicable Union product legislation, if relevant. Indeed, Union product legislation typically requires affixing the CE marking concerning the product either on the product itself or on its packaging. Requiring CE marking on the packaging to show compliance with the requirements of this Regulation can lead to confusion and misunderstanding in relation to the question whether the marking refers to the packaging itself or to the packaged product and ultimately to uncertainties about the effective safety and compliance of the concerned products.

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<sup>57</sup> Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

- (79) Compliance of packaging itself with the requirements of this Regulation should instead be shown with the EU declaration of conformity which should be accessible to economic operators and end-users through the QR code to be affixed to the packaging.
- (80) Manufacturers should draw up an EU declaration of conformity to provide information on the conformity of packaging with this Regulation. Manufacturers may also be required by other Union legislation to draw up an EU declaration of conformity. To ensure effective access to information for market surveillance purposes, a single EU declaration of conformity should be drawn up in respect of all Union acts. To reduce the administrative burden on economic operators, it should be possible for that single EU declaration of conformity to be a dossier made up of relevant individual declarations of conformity.
- (81) Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>58</sup> lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries. That Regulation should be applicable to packaging covered by this Regulation in order to ensure that packaging benefiting from the free movement of goods within the Union fulfil requirements providing a high level of protection of public interests such as human health, safety and the environment.
- (82) The conformity assessment procedures set out in this Regulation require the intervention of conformity assessment bodies. In order to ensure a uniform implementation of the provisions in this Regulation, those bodies should be notified by the Member State authorities to the Commission.
- (83) To ensure a consistent level of quality in the performance of conformity assessment, it is necessary to set requirements for notifying authorities involved in the assessment, notification and monitoring of notified bodies. In particular, it should be ensured that the notifying authority is objective and impartial with regard to its activity. Furthermore, notifying authorities should be required to safeguard the confidentiality of the information they obtain, but should nonetheless be able to exchange information on notified bodies with national authorities, the notifying authorities of other Member States and the Commission to ensure consistency in the conformity assessment. To effectively establish and monitor the competence and independence of applicant bodies, notifying authorities should take as a basis for notification only the precise legal body applying, not taking into account the credentials of parent or sister companies. For the same reason, they should assess applicant bodies against all relevant requirements and conformity assessment tasks, relying on harmonised standards for the requirements and tasks covered by those standards.

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<sup>58</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30)

- (84) It is essential that all notified bodies perform their functions to the same level and under conditions of equal competition and autonomy. Therefore, requirements should be set for conformity assessment bodies wishing to obtain the status of notified body in order to provide conformity assessment activities. Those requirements should continue to apply to maintain the competence of the notified body. To ensure its autonomy, the notified body and the staff it employs should be required to maintain independence from economic operators in the value chain of the packaging in relation to which it has been notified and from other companies, including business associations and parent companies and subsidiaries.
- (85) If a conformity assessment body demonstrates conformity with the criteria laid down in harmonised standards, it should be presumed to comply with the corresponding requirements set out in this Regulation.
- (86) Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. To ensure that packaging placed on the Union market comply with sustainability requirements under this Regulation, conformity assessment subcontractors and subsidiaries should fulfil the same requirements as notified bodies in relation to the performance of conformity assessment tasks under this Regulation.
- (87) In order for notifying authorities to effectively establish and monitor the competence and independence of applicant bodies, those bodies should be and remain autonomous. Therefore, certain activities and decision-making processes, both regarding the conformity assessment of products and other activities internal to the notified body, should exclusively be carried out by the individual notified body itself.
- (88) To facilitate the process of establishing and monitoring the competence and independence of applicant bodies, applicant bodies should draw up and regularly update a qualification matrix. This matrix should match personnel and their qualifications to specific conformity assessment tasks, enabling the notifying authority to more effectively assess the adequacy of staffing and the continued autonomy of the notified body.
- (89) Since the services offered by notified bodies in a Member State might relate to packaging made available on the market throughout the Union, it is appropriate to give the other Member States and the Commission the opportunity to raise objections concerning a notified body.
- (90) In the interests of facilitating and accelerating the conformity assessment procedure, and to ensure equal treatment of economic operators, it is crucial that the notified bodies apply the conformity assessment procedures consistently and without creating unnecessary burdens for economic operators.
- (91) Prior to taking a final decision on whether a packaging can be granted a conformity certificate, the economic operator that wishes to place that packaging on the market should be allowed to supplement the relevant documentation once only. This limitation is necessary to ensure that notified bodies are not able to assist manufacturers in making changes until conformity is reached, as that would mean that the service provided resembles a consulting service and could in practice dilute the public interest nature of notified bodies' tasks. Where appropriate, notified bodies should also be able to restrict, suspend or withdraw any certificates or approval decisions.

- (92) To facilitate the identification and resolution of cases of non-conformity of notified bodies, manufacturers or packaging, notified bodies should proactively forward relevant information at their disposal to notifying authorities or market surveillance authorities.
- (93) It is essential to ensure efficient exchange of information between notified bodies and market surveillance authorities, including from other Member States. To that end, it is necessary for notifying authorities and notified bodies to ensure follow-up to requests for information from market surveillance authorities.
- (94) The Commission should enable appropriate coordination and cooperation between notified bodies. To ensure harmonised application of the sustainability requirements established by this Regulation, notified bodies should discuss and coordinate on topics of possible divergence.
- (95) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and contributing to long-term competitiveness. The more efficient use of resources would also bring substantial net savings for Union businesses, public authorities and consumers, while reducing total annual greenhouse gas emissions.
- (96) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. The evolving retail landscape, with larger distribution networks, produced and packed on high-speed packaging lines, have combined to exert a downward pressure on the market for re-use and refill.
- (97) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.
- (98) In order to ensure better, more timely and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62 covered the attainment of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.
- (99) As management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. Measures on waste prevention and re-use should be given particular attention.

- (100) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.
- (101) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and avoidable packaging, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.
- (102) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5% reduction in 2030 compared to 2018 will entail an overall absolute reduction of approximately 19% on average across the EU in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10%, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29% compared to the 2030 baseline.
- (103) Member States may achieve this target by waste prevention measures, including the establishment of waste prevention programmes and incentives through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities of refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and re-use targets, volume thresholds and measures to achieve a sustained reduction of lightweight plastic carrier bags.
- (104) To implement the polluter pays principle, it is appropriate to lay the obligations for the management of packaging waste on producers, which includes any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU on consumer rights<sup>59</sup>, makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark.
- (105) In order to monitor that producers meet their obligations to ensure the recycling of packaging made available on the market for the first time within the territory of a Member State, it is necessary that a register is established and managed by the competent authority in each Member State. Producers should be obliged to register to allow the competent authorities to monitor their compliance with the obligations. Registration requirements should be harmonised across the Union. Therefore, the Commission should be entitled to adopt an implementing act establishing the format

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<sup>59</sup> Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64)

for registration and reporting to the register and the granularity of data to be reported, detailing the packaging types and material categories covered.

- (106) As the amount and type of packaging used depends more on the choices made by the producer rather than the consumer or the end-user, extended producer responsibility (EPR) schemes should be established, as provided for in Directive 94/62/EC, by 31 December of 2024. Effective extended producer responsibility schemes can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. While extended producer responsibility schemes for packaging already exist in most Member States, there are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, complemented by further specific provisions where this is necessary and appropriate with regard to the organisation of the as regard EPR for packaging. The Member States should define the parameters for extended producer responsibility provided by this Regulation, in accordance with the provisions of Directive 2008/98/EC and consistently with national law transposing that Directive.
- (107) Producers should have extended producer responsibility for the management of packaging, which they place on the market, at its end-of-life. Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers.
- (108) This Regulation is a *lex specialis* in relation to Directive 2008/98/EC. Member States should provide the measures for the extended producer responsibility under this Regulation, in accordance with the provisions of Directive 2008/98/EC and consistently with national law transposing that Directive. These additional measures should be consistent with the rules in the Regulation.
- (109) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.
- (110) Member States should also take measures promoting high quality recycling, and to meet the necessary quality standards for recycling sectors. This obligation is particularly relevant in the view of recycled content targets set for all plastic packaging.
- (111) In order to support the achievement of separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to drive high collection rates of metal beverage containers, Member States should establish deposit and

return systems. These systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.

- (112) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States may also decide to include other packaging in these systems, in particular single use glass bottles, and should ensure that deposit and return systems for single use packaging formats, in particular for single use glass beverage bottles, are equally available for reusable packaging, where technically and economically feasible. They should consider establishing deposit and return systems also for reusable packaging.
- (113) Given the nature of the products, deposit and return systems should however not be obligatory for packaging for wine and spirit drinks and milk and milk products listed in Annex I Part XVI of the Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products<sup>60</sup>. Member States may establish deposit and return systems covering also packaging for these products.
- (114) All deposit and return systems should comply with the minimum general requirements as laid down in this Regulation. These requirements will help deliver greater consistency and higher return rates across Member States. They were set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.
- (115) The relevant stakeholders involved in the setting up of the deposit and return systems should strive for the maximum inter-operability of these systems and cooperate to ease the return of packaging by consumers, in particular in border areas where it is demonstrated that the lack of interoperability is causing lower return rates.
- (116) Member States which achieve 90% collection rate of the targeted packaging types without a deposit and return system should be exempted from the obligation to establish a deposit and return system. Similarly, Member States achieving such high collection rates thanks to existing deposit and return systems should be exempted from the obligation to comply with the minimum requirements.
- (117) As achievement of the collection rates should be monitored, implementing powers should be conferred on the Commission to lay down the methodology for the calculation and verification of the collection rates for packaging.
- (118) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for re-use and monitor their functioning and compliance with the hygiene standards. Member States are encouraged take also other measures,

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<sup>60</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671)



such as setting up deposit and return systems covering reusable packaging formats or using economic incentives.

- (119) Directive (EU) 2018/852<sup>61</sup> amending the Directive 94/62/EC set out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be retained. Furthermore, measures facilitating the attainment of these targets should be set up, such as sustainability requirements for packaging, in particular provisions regarding packaging's recyclability. For this reason, the possibility to postpone the deadlines for attaining the targets for five years should not apply to the 2030 recycling targets.
- (120) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. the modification of the 2030 recycling targets. It is not appropriate to amend the targets set for 2030 under Directive (EU) 2018/852. In fact, evidence exists showing that some Member States still have difficulties with meeting the existing targets. For this reason, this measures should be set up which will encourage manufacturers to place on the market more recyclable packaging, which will in turn help Member States to achieve the recycling targets. In the future, more recyclable packaging, coupled with greater granularity of data on the packaging flows, which will be reported to the Commission, and should enable the Commission to review the targets, with the possibility of maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, this review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 8 years after its entry into force. During that review, attention should also be paid to the possibility of introducing new targets on a more granular basis as the current targets.
- (121) The Member States should inform the general public and economic operators on the recycling targets. They should encourage the use of materials obtained from recycled packaging waste for manufacturing of packaging and other products. They may also establish objectives going beyond the recycling targets set out in this Regulation in the interest of a high level of environmental protection and on condition that such measures do not lead to distortions of the internal market. In order to implement the recycling targets, Member States may establish national provisions obliging economic operators or producer responsibility organizations to attain recycling targets in line with the principles of equal treatment and non-discrimination.
- (122) The calculation of the recycling targets should be, as laid down under Directive 94/62/EC, based on the weight of packaging waste, which enters recycling. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the

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<sup>61</sup> Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste (OJ L 150, 14.6.2018, p. 141).

output of any sorting operation, to be corrected with average loss rates occurring before the waste enters the recycling operations. Losses of materials which occur before the waste enters the recycling operation, for instance due to sorting or other preliminary operations, should not be included in the waste amounts reported as recycled. Those losses can be established on the basis of electronic registries, technical specifications, detailed rules on the calculation of average loss rates for various waste streams or other equivalent measures. Member States should report on such measures in the quality check reports accompanying the data which they report to the Commission on waste recycling. The average loss rates should preferably be established at the level of individual sorting facilities and should be linked to the different main types of waste, different sources (such as household or commercial), different collection schemes and different types of sorting processes. Average loss rates should only be used in cases where no other reliable data are available, in particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.

- (123) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.
- (124) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, such materials can be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.
- (125) In the case of exports of packaging waste from the Union for recycling, Member States should make effective use of the inspection powers provided for in Article 50(4c) of Regulation (EC) No 1013/2006 of the European Parliament and of the

Council<sup>62</sup> to require documentary evidence to ascertain whether a shipment is destined for recovery operations which are in compliance with Article 49 of that Regulation (EC) No 1013/2006 and therefore managed in an environmentally sound manner at a facility operating in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Union legislation. In carrying out that task, Member States could cooperate with other relevant actors, such as the competent authorities in the country of destination, independent third-party verification bodies or organisations implementing extended producer responsibility obligations on behalf of producers of products established under extended producer responsibility schemes, which could carry out physical and other checks of facilities in third countries. In the quality check report accompanying the data on the attainment of the targets, Member States should report on the measures to implement the obligation to ensure that waste exported from the Union is treated in broadly equivalent conditions to those required under relevant Union environmental law.

- (126) As re-use entails the avoidance of placing new packaging on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets, as it was envisaged in Directive 94/62/EC. Member States may use this possibility taking into account maximum 5 percentage points of share of reusable packaging placed on the market for the first time to calculate the respective adjusted target level.
- (127) Producers and producer responsibility organizations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies. The information should be provided either by classical means, such as outdoors, posters and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.
- (128) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets, consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags and collection rates of single use plastic beverage bottles and metal beverage packaging.
- (129) Member States should also report data on recycling rates of packaging waste per packaging type and amounts of packaging waste placed on the market, as this data would be required to establish a methodology for assessment of at scale recyclability. Reporting should be done annually.

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<sup>62</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (*OJ L 190, 12.7.2006, p. 1*).

- (130) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste. The Commission should review all the reported data and publish a report assessing the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. Such report should be drawn up every years.
- (131) To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags.
- (132) In order to allow assessing whether the mandatory deposit and return systems to be set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.
- (133) In order to ensure uniform conditions for the implementation of amended rules on the reporting on the consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags 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 to establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person. This implementing act will replace 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<sup>63</sup>.
- (134) In order to ensure uniform conditions for the implementation of amended rules on the reporting, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be given to the Commission in respect of establishing reporting rules 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, as well as the collection rate of packaging covered by the obligation to establish deposit and return systems, and data related to specific packaging categories, which is necessary to establish the methodology for assessing recyclability of packaging. This implementing act will also lay down the format for reporting this data. It will replace the Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to

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<sup>63</sup> OJ L 160, 25.6.2018, p. 6–10.

Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste<sup>64</sup>.

- (135) In order to facilitate reporting, the Member States should ensure that packaging databases are established and well-functioning.
- (136) Effective enforcement of sustainability requirements is essential to ensure equal competition in the Union market and to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011<sup>65</sup> setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation, in so far as there are no specific provisions with the same objective, nature or effect in this Regulation.
- (137) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.
- (138) A procedure should exist under which interested parties are informed of measures intended to be taken with regard to packaging presenting a risk. It should also allow market surveillance authorities in the Member States, in cooperation with the relevant economic operators, to act at an early stage with regard to such packaging. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to determine whether national measures in respect of non-compliant products are justified or not.
- (139) The market surveillance authorities should have the right to require economic operators to take corrective action on the basis of findings that either packaging is not compliant with sustainability and labelling requirements or that the economic operator has infringed other rules on the placing or making available on the market of packaging.
- (140) 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 TFEU should be delegated to the Commission, which may exercise it as necessary, to require, where appropriate,

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<sup>64</sup> OJ L 086, 5.4.2005, p. 6.

<sup>65</sup> OJ L 169, 25.6.2019, p. 1.

contracting authorities and entities as defined in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement<sup>66</sup> and 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<sup>67</sup>, to align their procurement with specific green public procurement criteria or targets. Compared to a voluntary approach, mandatory criteria or targets will ensure that the leverage of public spending to boost demand for better performing products is maximised. The criteria should be transparent, objective and non-discriminatory.

- (141) The implementing powers that are conferred on the Commission by this Regulation and that do not relate to the determination whether measures taken by Member States in respect of non-compliant packaging are justified or not should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>68</sup>.
- (142) When adopting delegated acts pursuant to Article 290 TFEU, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making<sup>69</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (143) Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope.
- (144) To enhance trust in products placed on the market, in particular as regards the fact that they comply with sustainability requirements, the public needs to be sure that economic operators placing non-compliant packaging on the market or who do not comply with their obligations will be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.
- (145) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the

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<sup>66</sup> OJ L 94, 28.3.2014, p. 65

<sup>67</sup> OJ L 94, 28.3.2014, p. 243

<sup>68</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).

<sup>69</sup> OJ L 123, 12.5.2016, p. 1–14

Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of products and the functioning of the internal market. Where appropriate, the report should be accompanied by a proposal to amend relevant provisions of this Regulation.

- (146) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised.
- (147) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, Directive 94/62/EC should be repealed as of 124 months after entry into force of the Regulation.
- (148) Obligations under that Directive related to labelling the packaging in order to facilitate collection, re-use and recovery including recycling should remain in force until 24 months after the entry into force of the implementing act under Article 11(5). Obligations under that Directive related to the attainment of recycling targets should remain in force until 30 months after entry into force of the Regulation, except as regards the transmission of data to the Commission which shall continue to apply until 48 months after the entry into force of the Regulation in order to ensure continuity until new calculation rules and reporting formats are adopted by the Commission under this Regulation.
- (149) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement in the internal market of packaging, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

HAVE ADOPTED THIS REGULATION:

## **Chapter I**

### **General provisions**

#### *Article 1*

##### *Subject matter and scope*

1. This Regulation establishes requirements on packaging over its entire life-cycle related to packaging environmental sustainability and labelling to allow placing on the market, as well as minimum requirements for the extended producer responsibility, collection, treatment and recycling of packaging waste and related reporting requirements.

It shall apply to all packaging placed on the market in the European Union and to all packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other way, regardless of the material used.

2. This Regulation shall apply without prejudice to existing quality requirements for packaging such as those regarding safety, the protection of health and the hygiene of the packed products, or to existing transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.

## *Article 2* *Objectives*

The objectives of this Regulation are to contribute to the efficient functioning of the internal market, while preventing or reducing the adverse impacts of packaging on the environment and human health, and to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of packaging waste.

To that end and in order to contribute to the transition to the circular economy, this Regulation lays down measures in line with the hierarchy of waste as defined in Article 4 of Directive 2008/98/EC. As a first priority, the measures are aimed at limiting the amount of packaging placed on the market, increasing the re-use of packaging, reducing volume and weight of packaging, and preventing the generation of packaging waste. As additional fundamental principles, the measures aim at increasing the use of recycled materials in packaging, ensuring high quality recycling of packaging, reducing other forms of recovering packaging waste and its final disposal.

## *Article 3* *Definitions*

For the purposes of this Regulation:

- (1) ‘Packaging’ means all products made of any materials to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods.

‘Packaging’ consists of the following types of packaging:

- (a) sales packaging, i.e. packaging conceived so as to constitute a sales unit consisting of goods and packaging to the final user or consumer at the point of sale.
- (b) grouped packaging, i.e. 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 whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;
- (c) transport packaging, i.e. packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packages in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers. Transport packaging includes e-commerce packaging.

The above types of packaging can be further differentiated into packaging formats according to their function, material, and design.

The definition of ‘packaging’ shall be further based on the criteria set out below. The items listed in Annex I are examples of the application of these criteria.



- (I) Items shall be considered to be packaging if they fulfil the abovementioned definition without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together. Tea bags necessary to contain a tea product and intended to be used and disposed together with that product and filter coffee pods to be used and disposed together with product are considered to be packaging.
- (II) Items designed and intended to be filled at the point of sale and disposable items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function.
- (III) Packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function shall be considered to be packaging unless they are an integral part of this product and all elements are intended to be used, consumed or disposed of together;
- (2) ‘e-commerce packaging’ means transport packaging used to deliver goods in the context of sale online or through other means of distance sales to the end user;
- (3) ‘making available on the market’ means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (4) ‘placing on the market’ means the first making available of a packaging on the Union market;
- (5) ‘economic operator’ means manufacturers, suppliers of packaging, importers, distributors, final distributors, and fulfilment service providers;
- (6) ‘manufacturer’ means any natural or legal person who
- (a) manufactures packaging under its own name or trademark, or
- (b) has packaging designed or manufactured, and uses that packaging for the containment, protection, handling, delivery and presentation of goods under its own name or trademark, without it having been placed on the market previously;
- (7) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;
- (8) ‘supplier of packaging’ means any natural or legal person who supplies packaging or packaging material to a manufacturer who uses this packaging for the containment, protection, handling, delivery and presentation of goods under its own name or trademark;;
- (9) ‘importer’ means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;

- (10) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;
- (11) ‘authorised representative’ means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer’s obligations under this Regulation;
- (12) ‘authorised representative for the EPR’ means a legal or natural person established in a Member State where the producer makes packaging available on the market for the first time, other than the Member State where the producer is established, and who is appointed by the producer in accordance with third subparagraph of Article 8a(5) of Directive 2008/98/EC for fulfilling the obligations of that producer under Chapter IX of this Regulation;
- (13) ‘final distributor’ means the distributor who delivers packaged products or goods that can be purchased through refill to the end user;
- (14) ‘consumer’ means any natural person who is acting for purposes which are outside his or her trade, business or profession;
- (15) ‘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 does no longer makes this product further available on the market in the form supplied to him;
- (16) ‘composite packaging’ means a unit of packaging made of two or more different materials, excluding materials used for labels and sealing, which cannot be separated manually and form a single integral unit;;
- (17) ‘packaging waste’ means any packaging or packaging material covered by the definition of waste laid down in Article 3 of Directive 2008/98/EC, excluding production residues;
- (18) ‘packaging waste prevention’ means measures taken before any packaging or packaging material has become waste, that reduce the quantity of packaging waste, including through packaging minimisation, re-use of packaging and refill, reconditioning, the extension of the life span of packaging, re-design of products, so that less or no packaging is required to contain, protect, handle, deliver or present goods, bulk sales, elimination of excessive packaging as well as any measure that reduces the content of substances of concern in packaging; ;
- (19) ‘re-use’ means any operation by which reusable packaging is used again for the same purpose for which it was conceived;
- (20) ‘reusable packaging’ or packaging component means packaging which has been conceived, designed and placed on the market to accomplish within its lifecycle as many trips or rotations in a system for re-use;
- (21) ‘single use packaging’ means packaging which is not reusable packaging;
- (22) ‘rotation’ means a trip performed by reusable packaging from the moment it is placed on the market together with the goods it is intended to contain, protect, handle, deliver or present, to the moment it is sent back for re-use in a system for re-use with a view to its repeated placing on the market together with the goods;

- (23) ‘trip’ means transfer of packaging, from filling or loading to emptying or unloading. A trip may be part of a rotation;
- (24) ‘systems for re-use’ means organizational, technical and/or financial arrangements, which enable the re-use either in a closed loop or open loop system. Deposit and return system, when ensuring that packaging is collected for the same purpose for which it was conceived, can be considered as a ‘system for re-use’;
- (25) ‘reconditioning’ means an operation necessary to restore a reusable packaging to a functional state for the purpose of its re-use;
- (26) ‘refill’ means an operation by which an end user fills its own container, which fulfils the packaging function, with a product offered by the final distributor in the context of a commercial transaction;
- (27) ‘refill station’ means a place, where a final distributor offers to end users products that can be purchased through refill;
- (28) ‘HORECA sector’ means Accommodation and Food Service Activities according to NACE Rev. 2 – Statistical classification of economic activities<sup>70</sup>;
- (29) ‘design for recycling’ means design of packaging, including individual components, in order to ensure its recyclability under the state-of-the-art collection, sorting and recycling systems;
- (30) ‘recyclable packaging’ is packaging which can be effectively and efficiently collected, separated from the waste stream, sorted and aggregated into defined streams for recycling processes, and recycled at scale through state-of-the-art processes, so that it is turned into secondary raw material of sufficient quality that it can find end markets to substitute for the use of the primary raw material or organic substances in line with Article 64(4) ;
- (31) ‘recyclable packaging’ is packaging which can be effectively and efficiently collected, separated from the waste stream, sorted and aggregated into defined streams for recycling through state-of-the-art processes, and turned into secondary raw material of sufficient quality to substitute the primary raw material;
- (32) ‘packaging category’ means a combination of material and specific features of packaging design, which determine the recyclability under the state of the art collection sorting and recycling systems and are relevant for the definition of the design for recycling criteria;
- (33) ‘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 goods. Grouped and transport packaging that are discarded prior to the point of sale shall be considered independent units of packaging;

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<sup>70</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 \(europa.eu\)](#)

- (34) ‘innovative packaging’ means packaging format that is manufactured using new materials, design or production processes, resulting in a significant improvement in the core function of packaging as described in Article 3(1) of this Regulation and in demonstrable environmental benefits. Modifications of packaging for the sole purpose of improved presentation of products and marketing shall not be considered as such as innovative packaging;
- (35) ‘secondary raw materials’ means materials that have been obtained through recycling processes and can substitute virgin materials;
- (36) ‘post-consumer plastic waste’ means plastic waste that is generated from plastic products that have been placed on the market;
- (37) ‘contact sensitive plastic packaging’ means plastic packaging of products covered by Regulation (EU) 2017/745, Regulation (EU) 2017/746, Regulation (EC) No 1935/2004, Regulation (EC) No 767/2009, Regulation (EC) No 1831/2003, Regulation (EU) 2019/4, Regulation (EU) 2019/6, Directive 2001/83/EC and Directive 2008/68/EC;
- (38) ‘single use plastic beverage bottles’ means beverage bottles as listed in Part F of the Annex to Directive (EU) 2019/904;
- (39) ‘cosmetics’ means cosmetic products as defined in Article 2(1)(a) of the Regulation (EC) No 1223/2009;
- (40) ‘electronics’ means electrical and electronic equipment as defined in Articles 1(1-4), 2(1)(a) and listed in Annexes I – III of the Directive 2012/19/EU;
- (41) ‘toys’ means toys as defined in Articles 2(1-2) of the Directive 2009/48/EC;
- (42) ‘empty space’ means:
- (a) with respect to sales packaging: the difference between the total volume of sales packaging and the total volume of goods in this packaging;
  - (b) with respect to grouped packaging, transport packaging and e-commerce packaging: the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein;
- Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene or Styrofoam chips, shall be considered as empty space;
- (43) ‘empty space ratio’ means:
- (a) with respect to sales packaging: the ratio of the empty space as defined in point 42(a) and of the total volume of the sales packaging;
  - (b) with respect to grouped packaging, transport packaging and e-commerce packaging – the ratio of the empty space as defined in point 42(b) and of the total volume of the grouped packaging, transport packaging or e-commerce packaging;
- (44) ‘plastic’ means 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;

- (45) 'plastic carrier bags' means carrier bags, with or without handle, made of plastic, which are supplied to consumers at the point of sale of goods or products;
- (46) 'lightweight plastic carrier bags' means plastic carrier bags with a wall thickness below 50 microns;
- (47) 'very lightweight plastic carrier bags' means plastic carrier bags with a wall thickness below 15 microns;
- (48) 'thick plastic carrier bags' means plastic carrier bags with a wall thickness between 50 and 99 microns;
- (49) 'very thick plastic carrier bags' means plastic carrier bags with a wall thickness above 99 microns;
- (50) 'waste receptacles' means containers, bins and bags used to store and collect waste;
- (51) 'deposit' means a fixed sum of money, not being part of the price of a packaged or filled product that is collected from the end user when purchasing such packaged or filled product, covered by a deposit and return system in a given Member State and redeemable when the end user returns the deposit bearing packaging to a collection point established for that purpose;
- (52) 'deposit and return system' means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;
- (53) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;
- (54) 'harmonised standard' means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;
- (55) 'accreditation' means accreditation as defined in Article 2(10) of Regulation (EC) No 765/2008;
- (56) 'national accreditation body' means a national accreditation body as defined in Article 2(11) of Regulation (EC) No 765/2008;
- (57) 'conformity assessment' means the process demonstrating whether the sustainability, safety, labelling and information requirements of this Regulation, relating to a packaging, have been fulfilled;
- (58) 'conformity assessment body' means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
- (59) 'notified body' means a conformity assessment body notified in accordance with Chapter VIII of this Regulation;
- (60) 'producer responsibility organisation' means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;
- (61) 'life-cycle' means the consecutive and interlinked stages of a packaging life, from raw material acquisition or generation from natural resources to final disposal.
- (62) 'product presenting a risk' means a product that, by not complying with a requirement set out in or pursuant to this Regulation other than those listed in Article

72(1), may adversely affect the environment or other public interests protected by that requirement;

- (63) ‘product presenting a serious risk’ means a product presenting a risk for which, based on an assessment, the degree of the relevant non-compliance or the associated harm is considered to require rapid intervention by the market surveillance authorities, including cases where the effects of the non-compliance are not immediate

The definition of ‘substance of concern’ laid down in Article [2(28)] of Regulation (EU) .../...[Regulation on eco-design for sustainable products] shall apply;

The definitions of ‘waste’, ‘waste management’, ‘collection’, ‘separate collection’, ‘extended producer responsibility scheme’, ‘preparing for re-use’, and ‘recycling’ laid down in Article 3 of Directive 2008/98/EC shall apply.

The definitions of ‘market surveillance’, ‘market surveillance authority’, ‘fulfilment service provider’, ‘corrective action’, ‘recall’ and ‘withdrawal’, as well as of ‘risk’ in relation to requirements of Chapters II, VII and X, laid down in Article 3 of Regulation (EU) 2019/1020 shall apply.

#### *Article 4*

##### *Free movement*

1. Packaging shall only be placed on the market if it complies with this Regulation.
2. Member States shall not prohibit, restrict or impede the placing on the market of packaging if it complies with the sustainability requirements of packaging set out in this Regulation and implementing acts adopted thereunder for reasons of non-compliance with sustainability requirements for packaging adopted individually by Member States.
3. Member States shall not prohibit, restrict or impede the placing on the market of packaging if it complies with the labelling and information requirements set out in this Regulation and implementing acts adopted thereunder for reasons of non-compliance with labelling requirements for packaging adopted by individual Member States. for reasons of non-compliance with labelling requirements for packaging adopted by individual Member States.
4. Member States shall not prohibit, restrict or impede the placing on the market of packaging on the grounds of non-compliance with national requirements for which this Regulation contains no sustainability, labelling or information requirements.
5. Member States shall not mandate their own labelling systems in the areas covered by this Regulation and the implementing act adopted thereunder, with the exception of labelling of packaging included into the deposit and return system and systems for re-use.
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it have been brought into conformity.

## Chapter II

### Sustainability requirements

#### *Article 5*

##### *Restrictions on substances of concern in packaging*

1. Packaging 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 in emissions and any outcomes of waste management, such as secondary raw materials, ashes or other material for final disposal.
2. Without prejudice to the restrictions set out in Annex XVII of Regulation (EC) No 1907/2006, the sum of concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components shall not exceed 100 mg/kg by weight.
3. Compliance with the requirements in paragraph 2 shall be shown in the technical information concerning the packaging.
4. When there is an unacceptable risk to human health or the environment, arising from the use of a substance in the manufacture of packaging or packaging components, or from a substance present in packaging or packaging components when they are placed on the market, or during their subsequent life cycle stages, including the waste phase, that needs to be addressed on a Union wide basis, the procedure referred to in Article 133(4) of Regulation (EC) No 1907/2006 shall be used in order to adopt new restrictions or amend current restrictions pursuant to Articles 68(1) and 69 to 73 of Regulation (EC) No 1907/2006.
5. For substances manufactured for use or used in the manufacture of packaging or packaging components that could be used by consumers of professionals, or present in packaging or packaging components placed on the market, that could be used by consumers or professionals, Article 68(2) of Regulation (EC) No 1907/2006 applies.
6. In view of scientific and technological progress, the Commission shall assess whether the exemptions from the requirement laid down in paragraph 2 of this Article, introduced in Commission Decision 2001/171/EC and Commission Decision 2009/292/EC, are still justified and on the basis of this assessment, adopt delegated act replacing where appropriate the existing decisions. The Commission may amend or repeal the above Commission decisions in accordance with the procedure laid down in Article 74.

#### *Article 6*

##### *Recyclable packaging*

1. Packaging shall be 'recyclable packaging' if:
  - (a) as of 1 January 2030, it complies with the design for recycling criteria, as set out in the delegated act(s) adopted by the Commission according to paragraph 10 first indent, for a packaging category, to which the unit belongs according to Annex II, Part A, and

- (b) as of 1 January 2035, it is recycled at scale according to the methodology established in the delegated act(s) adopted by the Commission according to paragraph 10, second indent.
2. The delegated acts in paragraph 1 shall address the packaging categories and parameters set out in Annex II and shall contain:
- (a) a requirement to express the result of the design for recycling assessment in performance grades from A to E;
  - (b) detailed design for recycling criteria for each category of packaging as listed in Annex II, Part A;
  - (c) a description, for each category of packaging as listed in Annex II, Part A, of the respective performance grades from A to E;
  - (d) rules on the modulation of financial contributions to be paid by producers to comply with their extended producer responsibility obligations according to Article 57, based on the packaging performance grade;
  - (e) a description of the methodology for the assessment of the recycling at scale of packaging.
3. Where by 1 January 2027 a delegated act under paragraph 2 has not been adopted, a packaging, which presents the features listed in Annex II, Part D, as applicable, shall be considered as not recyclable as of 1 January 2030.
4. As of 1 January 2030, packaging, which
- (a) presents any of the features listed in Annex II Part D, unless otherwise specified in the delegated act[-s] under paragraph 10, or
  - (b) which is assessed as corresponding to the performance grade E under the design for recycling criteria established for the packaging category, to which it belongs,
- is considered as not recyclable.
5. As of 1 January 2035, packaging, which
- (a) presents any of the features listed in Annex II Part D, unless otherwise specified in the delegated act[-s] under paragraph 10, or
  - (b) which is assessed as corresponding to the performance grade E under the design for recycling criteria established for the packaging category, to which it belongs, and
  - (c) which is assessed as not being recycled at scale
- is considered as not recyclable.
6. Compliance with the requirements in paragraphs 1 and 4 to 5 shall be shown in the technical documentation concerning the packaging.
7. In derogation from paragraph 1 and 4 to 5, packaging which complies with Article 3, point 34, may be placed on the market.

Such packaging shall be accompanied by technical documentation, required under paragraph 6, 5 years from the end of the calendar year when it has been placed on the market or from 1 January 2030, whichever date comes later.



8. Until 1 January 2035, pharmaceutical immediate packaging, as defined in Article 1 of Directive 2001/83/EC, shall be exempted from the requirements of this Article.
9. The financial contributions paid by producers to comply with their extended producer responsibility obligations as laid down in Article 57 shall be modulated only on the basis of the design for recycling performance grade, as stated in the technical documentation, according to the delegated act.
10. The Commission shall be empowered to:
  - (a) by 1 January 2027, adopt delegated acts establishing design for recycling criteria and performance grades based on the parameters listed in Annex II, Part B, for the packaging categories listed in Annex II, Part A and rules concerning the modulation of financial contributions to be paid by producers to comply with their extended producer responsibility obligations, as required in Article 57(1), based on the packaging performance grade,
  - (b) by [1 January 2031], adopt delegated acts establishing a methodology to assess the collection, sorting and recycling at scale of packaging in accordance with the essential elements laid down in Annex II, Part C;
  - (c) in order to take account of the relevant scientific and technical development in material and product design, collection, sorting and recycling infrastructure, as well as of the delegated act on the assessment of at scale recycling established under point (b), amend the Annex and the delegated acts listed above.
11. The delegated acts referred to in paragraph 10 shall be adopted in accordance with the procedure referred to in Article 74.

#### *Article 7*

##### *Minimum recycled content in plastic packaging*

1. From 1 January 2030 plastic packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per unit of plastic packaging:
  - (a) 25 % for contact sensitive plastic packaging;
  - (b) 50 % for single use plastic beverage bottles;
  - (c) 45 % for plastic packaging other than under letters (a) and (b).
2. From 1 January 2040, plastic packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per unit of plastic packaging:
  - (a) 50 % for contact sensitive plastic packaging;
  - (b) 65 % for single use plastic beverage bottles;
  - (c) 65% for plastic packaging other than under letters (a) and (b).
3. Compliance with the requirements in paragraphs 1 and 2 shall be shown in the technical information concerning the packaging.
4. By 31 December 2026, the Commission shall adopt an implementing act, in accordance with Article 75 to establish the methodology for calculation and verification of the percentage of recycled content recovered from post-consumer

plastic waste, per unit of plastic packaging, and the format for the technical documentation.

5. Starting with the 1 January 2029, the calculation and verification of the percentage of recycled content contained in plastic packaging shall comply with the rules laid down in the implementing act as referred to in paragraph 4.
6. Where justified by the availability or excessive prices of specific recycled plastics, the Commission shall be empowered to adopt a delegated act in accordance with Article 74 to temporarily amend the targets laid down in paragraphs 1 and 2. In evaluating the justification of such a delegated act, the Commission shall assess requests from natural or legal persons which are accompanied by relevant information and data on the market situation for these recycled plastics.
7. The Commission shall be empowered to adopt a delegated act in accordance with Article 74 establishing minimum percentages of recycled content in packaging materials other than plastic, if there is evidence, on the basis of technology and market availability, that the potential for the inclusion of recycled content in packaging from such materials is not sufficiently used.

#### *Article 8*

##### *Compostable packaging*

1. In order to be considered compostable packaging shall be capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water, according to Article 64(4), and does not hinder the separate collection and the composting process or activity into which it is introduced.
2. By 24 months from the entry into force of this Regulation, tea bags, filter coffee pods disposed together with the used coffee products, sticky labels attached to fruit and vegetables and very lightweight plastic carrier bags shall be compostable in industrially controlled conditions in bio-waste treatment facilities.
3. Where appropriate waste collection schemes and waste treatment infrastructure are available to ensure that such packaging enters the organic waste management stream, Member States, are empowered to require that lightweight plastic carrier bags shall be made available on their market for the first time only if it can be demonstrated that they have been entirely manufactured from compostable plastic polymers.
4. By 24 months from the entry into force of this Regulation, packaging other than that listed in paragraphs 2 and 3 shall not be manufactured from compostable plastic polymers.
5. Compliance with the requirements in paragraphs 1, 2 and 3 shall be shown in the technical information concerning the packaging.
6. Where justified and appropriate due to technological and regulatory developments impacting the disposal of compostable plastics and under the conditions set out in Annex III, the Commission shall be empowered to adopt delegated acts in accordance with Article 74 to amend the list of items in paragraphs 2 and 3.
7. The Commission shall, no later than 31 May 2026, request the European standardisation organisations to update the harmonised standard on the requirements

for packaging recoverable through composting and biodegradation - test schemes and evaluation criteria. This standard shall consider the composting times, admissible levels of visual contamination and other requirements needed to reflect the actual conditions in the bio-waste treatment facilities, including anaerobic digestion processes, in line with the scientific and technological developments.

*Article 9*  
*Packaging minimisation*

1. As of 1 January 2030, each unit of packaging shall be scaled down to its minimum size, as regards its weight, , volume and layers of packaging, with due account taken of the packaging's safety and functionality.
2. The requirement in paragraph 1 shall apply to:
  - (a) sales packaging which is placed on the market together with the packaged product and shall apply in comparison with the packaged product and its characteristics. If sales packaging contains:
    - (i) bulk products, which settle after being packaged, or multiple items that need to be separated from each other within the packaging for other reasons than marketing or sales: the empty space ratio shall be maximum 25%;;
    - (ii) cosmetics, electronics and toys: the empty space ratio shall be maximum 15%;
  - (b) grouped packaging, in relation to the size, weight and volume of the grouped products and their packaging;
  - (c) transport, including e-commerce, packaging, in relation to the size, weight and volume of the products being transported.

Packaging with double walls, false bottoms and other means to create the impression of increased product volume, or superfluous packaging not fulfilling a packaging function as defined in Article 3(1) shall not be placed on the market.

3. Compliance with the requirements in paragraphs 1 and 2 shall be shown in the technical documentation which shall contain:
  - (a) an explanation of the technical specifications, standards and conditions used to assess the packaging against the performance criteria listed in Part A of Annex IV;
  - (b) the identification of the most important requirements for packaging within each of these criteria,
  - (c) the identification of the critical area for the packaging which, based on tests, studies or other relevant sources, according to Part B of Annex IV prevents further reducing the volume or weight of the packaging; and
  - (d) the documentation referred to in Annex V.

For reusable packaging, the assessment of compliance with the requirements in paragraph 1 shall take into account the function of reusable packaging as defined in Article 3(20).

4. In line with Regulation (EU) 1025/2012, the Commission may request the European standardisation organisations to update the a harmonised standard laying down the

methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation and specifying maximum adequate weight limits for certain most common packaging types and formats.

5. The Commission may request the development of the European standardisation organisations to update the a harmonised standard laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation and specifying maximum adequate weight limits for certain most common packaging types and formats.

*Article 10*  
*Reusable packaging*

1. Packaging is ‘reusable packaging’ where:
  - (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;
  - (c) it can be emptied or unloaded without damage to the packaging preventing its re-use;
  - (d) it is capable of being emptied, unloaded, refilled or reloaded while ensuring compliance with the hygiene requirements;
  - (e) it is capable of being reconditioned in accordance with Part B of Annex VII, whilst maintaining the packaging’s ability to perform its intended function;
  - (f) packaging can be emptied, unloaded, refilled or reloaded without risk to the integrity of the product and to the health and safety of those responsible for doing so; and
  - (g) packaging fulfils the requirements specific to recyclable packaging when it becomes waste.
2. Compliance with the requirements in paragraph 1 shall be shown in the technical information concerning the packaging.
3. The Commission shall request the European standardisation organisations, as appropriate, to prepare harmonised standards, which define reusable packaging formats, including their minimum number of trips or rotations as well as hygiene requirements.

**Chapter III**  
**Labelling, marking and information requirements**

*Article 11*  
*Labelling of packaging*

1. By 24 months after the publication of the implementing act under paragraph 5 of this Article, packaging shall be marked with a label containing information on its material composition in order to facilitate consumer sorting. This obligation does not apply to transport packaging, with the exception of e-commerce packaging.

In addition, packaging subject to deposit and return systems referred to in Article 61(1) shall be marked with a harmonised label to be set in the implementing act referred to under paragraph 5.

2. By 48 months after the publication of the implementing act under paragraph 5 of this Article, packaging shall bear a label on packaging reusability and a QR code providing further information on packaging reusability including the availability of a system for re-use and of collection points, and facilitating tracking the packaging and the calculation of trips and rotations. In addition, reusable sales packaging shall be clearly identified and distinguished from single use packaging at the point of sale.
3. Where a unit of packaging is marked with a label containing information on the share of recycled content, the label shall comply with the specifications established by the implementing act referred to in Article 7(4) [recyclability, technical documentation].
4. Labels referred to in paragraphs 1 and 3 and the QR code referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly legibly and indelibly on the packaging. Where this is not possible or not warranted on account of the nature and size of the packaging, they shall be affixed to the grouped packaging.
5. By 18 months after the entry into force of this Regulation], the Commission shall adopt implementing acts to establish harmonised specifications for the labelling requirements and formats for packaging referred to in paragraphs 1 to 3 and waste receptacles referred to in Article 12. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 75.
6. By 24 months after the entry into force of this Regulation], the Commission shall adopt an implementing act to establish the conditions for identifying the material composition of packaging under paragraph 1 of this Article by means of digital marking technologies. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 75.
7. Without prejudice to requirements concerning other harmonised EU labels, economic operators shall not provide or display labels, marks, symbols or inscriptions that are likely to mislead or confuse consumers or other end users with respect to the sustainability requirements for packaging, other packaging characteristics or packaging waste management options, for which harmonised labelling has been laid down in this Regulation or in the implementing act adopted pursuant to paragraph 5.
8. Packaging included in an extended producer responsibility scheme or covered by a deposit and return system other than referred to in Article 61(1) may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. This symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of packaging.

#### *Article 12*

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

From 24 months after the adoption of the implementing act in Article 11(5), a label referred to in Article 11(1) shall be affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste, to enable the separate collection of the material specific fraction of packaging waste that is intended to be discarded into the respective receptacle.

## **Chapter IV Packaging Forum**

### *Article 13 Packaging Forum*

The Commission shall ensure that when it conducts its activities, it observes a balanced participation of Member States' representatives and all interested parties involved with packaging industry, including waste treatment industry representatives, manufacturers and packaging suppliers, distributors, retailers, importers, SMEs, environmental protection groups and consumer organisations. These parties shall contribute in particular to preparing the delegated and implementing acts provided for in this Regulation to develop and further detail the sustainability requirements and examining the effectiveness of the established market surveillance mechanisms.

To that end, the Commission shall establish an expert group, in which those parties shall meet, referred to as the 'Packaging Forum'.

## **Chapter V Obligations of economic operators other than the obligations in Chapters VI and IX**

### *Article 14 Obligations of manufacturers*

1. When placing packaging on the market, manufacturers shall ensure that the packaging:
  - (a) has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; and
  - (b) is labelled in accordance with the applicable requirements set out in Article 11.
2. Before placing packaging on the market, manufacturers shall carry out the relevant conformity assessment procedure, referred to in Article 33, or have it carried out on their behalf, and draw up the technical documentation referred to in Annex VIII.

Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.
3. Manufacturers shall keep the technical documentation referred to in Annex VIII and the EU declaration of conformity for 10 years after the packaging has been placed on the market.
4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity with this Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account

by manufacturers. In case the manufacturers found that the packaging's conformity is affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VIII, or have it carried out on their behalf.

5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification, or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.
6. Manufacturers shall indicate on the packaging or on a QR code their name, registered trade name or registered trade mark and the postal address, and where available, electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code referred to in Article 11(2) or a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.
7. Manufacturers who consider or have reason to believe that packaging which they have placed on the market is not in conformity with one or more of the applicable requirements set out in Articles 5 to 11 shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate. Manufacturers shall immediately inform the market surveillance authority of the Member State in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.
8. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in either paper or electronic form. The relevant documents shall be made available within 10 days of receipt of a request by the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.

#### *Article 15*

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

*Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for manufacturer to demonstrate the conformity of the packaging, including the technical documentation in a language or languages, which can be easily understood by the manufacturers. That information and documentation shall be provided in either paper or electronic form.*

#### *Article 16*

##### *Obligations of authorised representative*

1. A manufacturer may, by a written mandate, appoint an authorised representative.

The obligations laid down in Article 14(1) and the obligation to draw up technical documentation shall not form part of the authorised representative's mandate.

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

*Article 17*  
*Obligations of importers*

1. Importers shall only place on the market packaging which is compliant with the applicable requirements of Articles 5 to 11.
2. Before placing packaging on the market, importers shall ensure that:
  - (a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical documentation drawn up by the manufacturer;
  - (b) the packaging is marked in accordance with Article 11,
  - (c) the packaging is accompanied by the required documents; and
  - (d) the manufacturer has complied with the requirements set out in Article 14(5) and (6).

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

3. Importers shall indicate on the packaging their name, registered trade name or registered trade mark and the postal address, and where available, electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.
4. Importers shall ensure that, while packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.



5. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, if appropriate.  
  
Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.
6. Importers shall, for 10 years after the packaging has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VIII can be made available to those authorities, upon request.
7. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided either in paper or electronic form. The relevant documents shall be made available within 10 days of receipt of a request by the national authority of a Member State.
8. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.

*Article 18*  
*Obligations of distributors*

1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.
2. Before making packaging available on the market, distributors shall verify that:
  - (a) producer, who implements extended producer responsibility for the packaging is registered in a register of producers provided for in Article 57;
  - (b) the packaging is marked in accordance with Article 11; and
  - (c) the manufacturer and the importer have complied with the requirements set out in Articles 14(5) and 14(6) and Article 17(3) respectively.
3. Where a distributor, before making packaging available on the market considers or has reason to believe that the packaging is not in conformity with the applicable requirements set out in Articles 5 to 11 or that its manufacturer is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or the manufacturer complies.  
  
Distributors shall ensure that, while packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.
4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the

corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, if appropriate, are taken.

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

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

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

#### *Article 19*

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

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

#### *Article 20*

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

An importer or a distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of the manufacturer under Article 14, where they:

- (a) place packaging on the market under their own name or trademark; or
- (b) modify such a packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation.

#### *Article 21*

##### *Identification of economic operators*

6.
  1. Economic operators shall, upon a request, provide information on the following to the market surveillance authorities:
    - (a) the identity of any economic operator that has supplied them with packaging;
    - (b) the identity of any economic operator to which they have supplied packaging.
7.
  2. Economic operators shall be able to provide the information referred to in paragraph 1 for 10 years after they have been supplied with the packaging and for 10 years after they have supplied the packaging.

## *Article 22*

### *Obligation related to excessive packaging*

8. 1. Economic operators who supply goods to a final distributor or an end user in grouped packaging, transport packaging or e-commerce packaging, shall ensure that the empty space ratio is maximum 40%.
9. 2. Economic operators using sales packaging as e-commerce packaging shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements in Article 9.

## *Article 23*

### *Restrictions on use of packaging formats*

1. Economic operators shall not place on the market packaging in the formats and for the purposes as listed in Annex VI.
2. In order to ensure a high level of environmental protection in the internal market, and facilitate the achievement of the targets set in Article 55, the Commission shall be empowered to adopt delegated acts in accordance with Article 74 and establish restrictions on the use of specific packaging formats in defined applications. These restrictions shall be established on the basis of their potential for reducing waste generated, in comparison with the reduction potential from other measures adopted under this Regulation.

## *Article 24*

### *Obligations in relation to reusable packaging*

Economic operators, who place reusable packaging on the market, shall ensure that a system for re-use of such packaging is in place, which meets the requirements laid down in Article 25 and Annex VII.

The description of the system's compliance with these requirements shall be drawn up as part of the technical documentation on reusable packaging as required in Article 10(2). For this purpose, the manufacturer shall request the relevant written confirmations from the participants in the system for re-use as defined in Annex VII.

## *Article 25*

### *Obligation related to systems for re-use*

1. Economic operators making use of reusable packaging shall participate in a one or more systems for re-use and shall ensure that the systems for re-use, which the reusable packaging is part of, comply with the requirements laid down in Part A of Annex VII.
2. Economic operators making use of reusable packaging shall recondition such packaging in compliance with Part B of Annex VII, prior to offering it again for use by end users.
3. Conveying reusable packaging to reconditioning shall not be considered discarding of an object in the meaning of Article 3(1) of the Directive 2008/98/EC.

*Article 26*  
*Obligations related to refill*

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

This information shall be regularly updated, clearly displayed and 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 VII.
3. Economic operators enabling refill shall ensure that packaging offered to the end users at the refill stations is not given free of charge.
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 application of paragraph 1.

*Article 27*  
*Re-use and refill targets*

1. From 1 January 2030, the economic operator making large household appliances listed in Annex II point 2 of the Directive 2012/19/EU available on the market for the first time within the territory of a Member State shall ensure that 90% of these goods is made available in reusable transport packaging within a system for re-use.
2. The final distributor making available on the market within the territory of a Member State the following products in sales packaging:
  - (a) cold and hot beverages filled into a container at the point of sale for take-away shall ensure that:
    - (i) from 1 January 2030 30% of these beverages is made available in reusable packaging within a system for re-use or by enabling refill;
    - (ii) from 1 January 2040 95% of these beverages is made available in reusable packaging within a system for re-use or by enabling refill;
  - (b) take-away ready-prepared food shall ensure that:
    - (i) from 1 January 2030 20% of these goods is made available in reusable packaging within a system for re-use or by enabling refill;
    - (ii) from 1 January 2040 75% of these goods is made available in reusable packaging within a system for re-use or by enabling refill;
3. The manufacturer and the final distributor making available on the market within the territory of a Member State the following products in sales packaging:
  - (a) alcoholic beverages other than wine and spirits namely beer, carbonated alcoholic beverages, fermented beverages other than wine and fruit wine,

products based on spirits, wine or other fermented beverages mixed with beverages such as soda, cider or juice, shall ensure that:

- (i) from 1 January 2030 20% of these goods is made available in reusable packaging within a system for re-use;
  - (ii) from 1 January 2040 75% of these goods is made available in reusable packaging within a system for re-use;
- (b) non-alcoholic beverages: water, water with added sugar, other sweetening matter or flavoured, soft drinks, soda lemonade, iced tea and similar beverages 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:
- (i) from 1 January 2030 20% of these goods is made available in reusable packaging within a system for re-use;
  - (ii) from 1 January 2040 75% of these goods is made available in reusable packaging within a system for re-use.

4. Economic operators using the following packaging in conditions other than provided for under paragraphs 6 and 7:

- (a) transport packaging: pallets, crates, foldable boxes, pails and drums for the conveyance or packaging of goods shall ensure that:
  - (i) from 1 January 2030 50% of such packaging used is reusable packaging within a system for re-use;
  - (ii) from 1 January 2040 90% of such packaging used is reusable packaging within a system for re-use;
- (b) transport packaging for the transport and delivery of non-food items made available on the market for the first time via e-commerce shall ensure that:
  - (i) from 1 January 2030 20% of such packaging used is reusable packaging within a system for re-use;
  - (ii) from 1 January 2040 80% of such packaging used is reusable packaging within a system for re-use;
- (c) transport packaging: pallet wrappings and straps for stabilization and protection of products put on pallets during transport shall ensure that:
  - (i) from 1 January 2030 20% of such packaging used is reusable packaging within a system for re-use;
  - (ii) from 1 January 2040 75% of such packaging used for transport is reusable packaging within a system for re-use;
- (d) grouped packaging: boxes used outside of sales packaging to group a certain number of goods to create a stock-keeping unit,
  - (i) from 1 January 2030 10% of such packaging used is reusable packaging within a system for re-use;
  - (ii) from 1 January 2040 50% of such packaging they used is reusable packaging within a system for re-use;

5. Targets laid down in paragraphs 1 to 4 shall be calculated for the period of a calendar year.
6. Where an economic operator uses transport packaging for transporting goods:
  - (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 any other linked enterprise or partner enterprise, as defined in Article 3 of the Annex to the Commission Recommendation 2003/361,

such transport packaging shall be reusable.

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

7. Economic operators delivering goods to another economic operator within the same Member State shall use only reusable transport packaging for the purpose of the transportation of such goods.

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

8. Member States may, taking into account the specific local conditions, exempt economic operators from the obligation to meet the targets laid down in paragraphs 2 and 3, provided that the economic operator, during a given calendar year, has:

- (a) placed maximum 1000 kg of packaging on the market,
- (b) employed maximum five employees, counted in accordance with rules set out in the Commission Recommendation 2003/361 or
- (c) a sales area of maximum 100 m<sup>2</sup>, including also all storage and dispatch areas.

Member States may lay down and apply stricter criteria than those in the first subparagraph in order for an economic operator to benefit from the obligation to meet the targets laid down in paragraphs 2 and 3.

Where a Member States makes use of the possibility to exempt economic operators from the obligation to meet the targets laid down in paragraphs 2 or 3, the Member State shall notify the exemptions to the Commission prior to their implementation.

#### *Article 28*

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

1. For the purpose of calculating the attainment of targets laid down in Article 27(1), the economic operator making large household appliances listed in Annex II, point 2, of the Directive 2012/19/EU available on the market for the first time within the territory of a Member State shall calculate:
  - (a) the number of units of sales of these 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 and
  - (b) the number of units of sales of these appliances in packaging other than reusable packaging as referred to in letter (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 calculating the attainment of targets laid down in Article 27 paragraphs 2 and 3, the final distributor making available on the market such goods within the territory of a Member State shall calculate, for each target separately:
  - (a) the number of units of sales 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 number of units of sales of beverages and food made available on the market within the territory of a Member State in a calendar year through refill, and
  - (c) the number of units of sales of beverages and food made available on the market within the territory of a Member State in other manner than indicated in letters (a) and (b) above in a calendar year.
3. For the purpose of calculating the attainment of targets laid down in Article 27(4) the economic operator using such packaging shall calculate, for each target separately:
  - (a) the number of equivalent units of each of the packaging formats listed in Article 27(4) constituting reusable packaging within a system for re-use they used in a calendar year, and
  - (b) the number of equivalent units of each of the packaging formats listed in Article 27(4) other than indicated in letter (a) above they used in a calendar year.
4. By 31 December 2028 the Commission shall adopt implementing acts establishing detailed calculation rules and methodology regarding the targets set out in Article 27. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 75.

#### *Article 29*

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

1. The economic operators referred to in Article 27 (1-4) shall report to the competent authority data concerning the attainment of the targets laid down in Article 27 for each calendar year.
2. They shall report within six months of the end of the reporting year for which the data are collected.
3. The first reporting period shall concern the calendar year starting on 1 January 2030.
4. The competent authorities shall establish electronic systems through which data shall be reported to them and specify the formats to be used.
5. Member State may allow competent authorities to request any additional information necessary to ensure the reliability of the data reported.
6. Member States shall make public the results as reported by the economic operators.

## **Chapter VI**

### **Plastic carrier bags**

#### *Article 30*

##### *Plastic carrier bags*

1. Member States shall take measures to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory.  
  
A sustained reduction is achieved if the annual consumption does not exceed 40 lightweight plastic carrier bags per person by 31<sup>st</sup> December 2025, and by the 31 December in any year thereafter or the equivalent target in weight.
2. Measures to be taken by Member States to meet the target in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, their composting properties, durability or specific intended use. Such measures may include marketing restrictions, in derogation from Article 4, provided that they are proportionate and non-discriminatory.
3. Member States may take measures such as economic instruments and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness.
4. Member States may exclude very lightweight plastic carrier bags, which are required for hygiene purposes or provided as primary packaging for loose food to prevent food wastage from the obligations under paragraph 1.

## **Chapter VII**

### **Conformity of packaging**

#### *Article 31*

##### *Presumption of conformity*

1. For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11 and 25 of this Regulation, test, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the-art methods, and whose results are deemed to be of low uncertainty, including methods set out in standards, the reference numbers of which have been published for that purpose in the Official Journal of the European Union.
2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the relevant sustainability requirements or parts thereof as set out in Articles 5 to 11 and 25 to the extent that those requirements are covered by such harmonised standards or parts thereof and, if applicable, to the extent that the minimum values established for those requirements are attained.



*Article 32*  
*Common specifications*

1. The Commission shall be empowered to adopt implementing acts laying down common specifications for the requirements set out in Articles 5 to 11 and 25, only where:
  - (a) There is no reference to harmonised standards already published in the Official Journal of the European Union related to the essential requirement(s), unless the harmonised standard in question is an existing standard that must be revised; and
  - (b) those requirements or tests are not covered by harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union; and
    - (i) the request has not been accepted by any of the European standardisation organisations; or
    - (ii) the Commission observes undue delays in the adoption of requested harmonised standards; or
    - (iii) a European standardisation organisation has delivered a standard that does not entirely correspond with the request of the Commission;

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75.

2. Packaging which is in conformity with common specifications or parts thereof shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 25 to the extent that those requirements are covered by those common specifications or parts thereof and, if applicable, to the extent that the minimum values established for those requirements are attained.
3. The Commission shall amend or repeal implementing acts referred to in paragraph 1 within a reasonable period of at least one year after publication of reference numbers of harmonised standards or parts thereof, covering the requirements or tests referred to in paragraph 1, in the Official Journal of the European Union, in order to allow manufacturers to take into account the changes as referred to in Article 14(4).

*Article 33*  
*Conformity assessment procedure*

1. Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VIII.
2. Records and correspondence relating to the conformity assessment procedures of packaging shall be drawn up in the official language or languages of the Member State where the notified body carrying out the conformity assessment procedures is established, or in a language or languages accepted by that body.

*Article 34*  
*EU declaration of conformity*

1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 10 and Article 11 has been demonstrated.

2. The EU declaration of conformity shall have the model structure set out in Annex IX, shall contain the elements specified in the module set out in Annex VIII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed or made available on the market.
3. Where packaging is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.
4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the packaging with the requirements laid down in this Regulation.

## **Chapter VIII**

### **Notification of conformity assessment bodies**

#### *Article 35* *Notification*

Member States shall notify the Commission and the other Member States of conformity assessment bodies authorised to carry out conformity assessment in accordance with this Regulation.

#### *Article 36* *Notifying authorities*

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with Article 41.
2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.
3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 to a body, which is not a governmental entity, that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Article 37. In addition, it shall have arrangements to cover liabilities arising out of its activities.
4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

#### *Article 37* *Requirements relating to notifying authorities*

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.

2. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.
3. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.
4. A notifying authority shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.
5. A notifying authority shall safeguard the confidentiality of the information it obtains. However, it shall, upon request, exchange information on notified bodies with the Commission as well as with notifying authorities of other Member States and other relevant national authorities.
6. A notifying authority shall take as a basis for notification only the specific conformity assessment body applying for notification and not take account of the capacities or personnel of parent or sister companies. The authority shall assess that body against all relevant requirements and conformity assessment tasks
7. A notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

#### *Article 38*

##### *Information obligation on notifying authorities*

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

#### *Article 39*

##### *Requirements relating to notified bodies*

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.
2. A conformity assessment body shall be established under the national law of a Member State and have legal personality.
3. A conformity assessment body shall be a third-party body independent from the organisation or the packaging it assesses. It shall not have any business ties with the organisations that have an interest in the packaging it assesses, in particular manufacturers, their trade partners and their shareholding investors. This shall not preclude the conformity assessment body from carrying out conformity assessment activities for competing manufacturers.
4. A conformity assessment body, its top level management and the assessment personnel shall not be the designer, manufacturer, supplier, importer, distributor, installer, purchaser, owner, user or maintainer of the packaging which they assess, nor the representative of any of those parties. This shall not preclude the use of assessed packaging that are necessary for the operations of the conformity assessment body or the use of such packaging for personal purposes.

A conformity assessment body, its top level management and the assessment personnel shall not be directly involved in the design, manufacture, marketing, installation, use or maintenance of that packaging, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

A conformity assessment body shall ensure that the activities of its parent or sister companies, subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of its conformity assessment activities.

This shall include establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of personnel to specific tasks and the conformity assessment decisions, without delegating them to a subcontractor or a subsidiary.

5. A conformity assessment body and its personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of its conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.
6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it in Annex VIII and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times, and for each conformity assessment procedure on the level of a specific packaging format and for each batch of the same packaging units in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks. Personnel responsible for taking assessment decisions shall be employed by the conformity assessment body under the national law of the notifying Member State, shall not have any other potential conflict of interest, shall be competent to verify the assessments made by other staff, external experts or subcontractors. The number of such personnel shall be sufficient to ensure business continuity and a consistent approach to conformity assessments;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency of these procedures and the ability to reproduce them. This shall include a qualification matrix that matches relevant personnel, their respective status and tasks within the conformity assessment body with the conformity assessment tasks in relation to which the body intends to be notified;
- (c) appropriate policies and procedures to distinguish between activities that it carries out as a notified body and other activities;
- (d) procedures for the performance of tasks which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of

complexity of the packaging technology in question and the mass or serial nature of the production process.

A conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary testing equipment or facilities.

7. The assessment personnel shall have the following:
  - (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
  - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments, including appropriate knowledge and understanding of the relevant legislation, test, measurement and calculation requirements, of the applicable harmonised standards or common specifications and of the relevant provisions of this Regulation;
  - (c) the ability to draw up certificates, records and reports demonstrating that conformity assessments have been carried out.
8. The impartiality of the conformity assessment bodies and their top-level management and of the assessment personnel shall be guaranteed.

The remuneration of the top-level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or their results.
9. A conformity assessment body shall take out liability insurance unless liability is assumed by the state in accordance with national law in the notifying Member State, or the Member State itself is directly responsible for the conformity assessment.
10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out the conformity assessment tasks in accordance with Annex VIII, except in relation to the notifying authorities and other national authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
11. A conformity assessment body shall participate in, or ensure that its assessment personnel is informed of, the relevant standardisation activities and the activities of the notified body coordination group established pursuant to Article 51 and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

#### *Article 40*

##### *Presumption of conformity of notified bodies*

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union it shall be presumed to comply with the requirements set out in Article 39 in so far as the applicable harmonised standards cover those requirements.

#### *Article 41*

##### *Subsidiaries of and subcontracting by notified bodies*

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 39 and shall inform the notifying authority accordingly.
2. A notified body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever those are established. The relevant notified bodies shall establish procedures for the on-going monitoring of the competence, activities and performance of its subcontractors or subsidiaries, taking into account the qualification matrix referred to in Article 39.
3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.
4. A notified body shall keep at the disposal of the notifying authority the relevant documents concerning the assessment and monitoring of the qualifications of the subcontractor or the subsidiary and the work carried out by them under Annex VIII.

#### *Article 42*

##### *Application for notification*

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. That application shall be accompanied by a description of the conformity assessment activities, of the conformity assessment module set out in Annex VIII, and of the type of packaging as specified in Article 3 and material as reported by Member States under Commission Decision 2005/270/EC, for which that body claims to be competent, the qualification matrix referred to in Article 39(6) point (b) as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 39. The accreditation certificate shall relate only to the precise legal body applying for notification and shall be based, in addition to relevant harmonised standards, on the specific requirements and conformity assessment tasks set out in Article 5 to 10 and Annex VIII.
3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 39.

#### *Article 43*

##### *Notification procedure*

1. A notifying authority may notify only conformity assessment bodies which have satisfied the requirements laid down in Article 39.
2. The notifying authority shall send a notification to the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.

3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and the packaging concerned and the relevant attestation of competence.
4. Where a notification is not based on an accreditation certificate as referred to in Article 42(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 39.
5. The body concerned may perform the activities of a notified body if the Commission or the other Member States do not raise any objections within 2 weeks of a notification where an accreditation certificate is used or within 2 months of a notification where an accreditation is not used.  
Only such a body shall be considered a notified body for the purposes of this Regulation.
6. The notification shall become valid the day after the body is included in the list of notified bodies referred to in Article 44(2) by the Commission. The body concerned may perform the activities of a notified body only after the notification has become valid.  
The Commission shall not publish a notification if it is aware or becomes aware that the relevant notified body does not meet the requirements laid down in Article 39.
7. The notifying authority shall inform the Commission and the other Member States of any subsequent relevant changes to the notification referred to in paragraph 2.

#### *Article 44*

##### *Identification numbers and lists of notified bodies*

1. The Commission shall assign an identification number to a notified body.  
It shall assign a single such number even where the body is notified under several Union acts.
2. The Commission shall make the list of bodies notified under this Regulation publicly available, including the identification numbers that have been assigned to them and the conformity assessment activities for which they have been notified.  
The Commission shall ensure that the list is kept up to date.

#### *Article 45*

##### *Changes to notifications*

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 39 or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw the notification, as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.
2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying authority shall take appropriate steps to ensure that this body's files are either processed by another notified body or

kept available for the responsible notifying and market surveillance authorities at their request.

#### *Article 46*

##### *Challenge of the competence of notified bodies*

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the notified body concerned.
3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

#### *Article 47*

##### *Operational obligations of notified bodies*

1. A notified body shall carry out conformity assessments in accordance with the conformity assessment procedure set out in Annex VIII.
2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which the undertaking operates, the structure of the undertaking, the degree of complexity of the packaging technology in question and the mass or serial nature of the production process.

In so doing, the notified body shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the packaging with this Regulation.

3. Where a notified body finds a manufacturer does not meet the applicable requirements set out in Articles 5 to 11, in corresponding harmonised standards referred to in Article 31, common specifications referred to in Article 32 or other technical specifications, it shall require that manufacturer to take appropriate corrective measures in view of a second and final conformity assessment, unless the deficiencies cannot be remedied, in which case it shall not issue a certificate or approval decision.
4. Where, in the course of the monitoring of conformity following the issue of a certificate or approval decision, a notified body finds that a packaging or the manufacturer does not comply or no longer complies, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate or approval decision if necessary.
5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates or approval decisions, as appropriate.
6. When taking conformity assessment decisions, including when deciding on the need to suspend or withdraw a certificate or approval decisions in light of possible non-compliance, notified bodies shall apply clear and pre-determined criteria.
7. Notified bodies shall ensure rotation among the assessment personnel.



*Article 48*  
*Appeal against decisions of notified bodies*

Member States shall ensure that an appeal procedure against the decisions of notified bodies is available.

*Article 49*  
*Information obligation on notified bodies*

1. A notified body shall inform the notifying authority of the following:
  - (a) any refusal, restriction, suspension or withdrawal of a certificate;
  - (b) any circumstances affecting the scope of and the conditions for notification;
  - (c) any request for information which it has received from market surveillance authorities regarding its conformity assessment activities;
  - (d) on request, any conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.
2. A notified body shall provide the other bodies notified under this Regulation which carry out similar conformity assessment activities that cover the same packaging with relevant information on issues relating to negative and, on request, positive conformity assessment results.
3. Where the Commission or a Member State's market surveillance authority submits a request to a notified body established on the territory of another Member State relating to a conformity assessment carried out by that notified body, it shall send a copy of that request to the notifying authority of that other Member State. The notified body concerned shall respond without delay and within 15 days at the latest to the request. The notifying authority shall ensure that such requests are resolved by the notified body unless there is a legitimate reason for not doing so.
4. Where notified bodies have or receive evidence that:
  - (a) another notified body does not comply with the requirements laid down in Article 39 or its obligations; or
  - (b) a packaging placed on the market does not comply with the sustainability requirements as set out in Articles 5 to 10 and in delegated or implementing acts adopted pursuant thereto by which that packaging is covered; or
  - (c) a packaging placed on the market, due to its physical condition, is likely to cause a serious risk;they shall alert and share such evidence with the relevant market surveillance or notifying authority, as appropriate.

*Article 50*  
*Exchange of experience*

The Commission shall provide for the organisation of exchange of experience between the Member States' authorities responsible for notification policy.

*Article 51*  
*Coordination of notified bodies*

1. The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Regulation are put in place and properly operated in the form of a group or groups of notified bodies, where appropriate including groups of bodies notified under this Regulation.  
  
Notified bodies shall participate in the work of that group or those groups, directly or by means of designated representatives.
2. Notified bodies shall apply as general guidance any relevant documents produced as a result of the work of the groups referred to in paragraph 1.
3. Coordination and cooperation in the groups referred to in paragraph 1 shall aim at ensuring the harmonised application of this Regulation.

## **Chapter IX** **Management of packaging and of packaging waste**

### **SECTION 1 – General provisions**

*Article 52*  
*Competent authority*

1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations arising from this Chapter and Article 27, paragraphs 1, 2, 3, 4, 6 and 7, as well as Article 28 and Article 29 and Article 30.
2. Member States shall lay down the details of the competent authority's or authorities' organisation and operation, including the administrative and procedural rules to ensure:
  - (a) the registration of producers in accordance with Article 56;
  - (b) the organisation and monitoring of reporting requirements under Article 56(7);
  - (c) the oversight of implementation of extended producer responsibility obligations in accordance with Article 57;
  - (d) making information available in accordance with Article 67.
3. By three months after the date of entry into force of this Regulation, Member States shall notify the Commission of the names and addresses of the competent authorities designated pursuant to paragraph 1. Member States shall inform the Commission without undue delay of any changes to the names or addresses of those competent authorities.

*Article 53*  
*Early warning report*

1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 55 and 63 at the latest three years before each of the deadlines laid down therein.

2. The reports referred to in paragraph 1 shall include the following:
  - (a) an estimation of the attainment of the targets by each Member State;
  - (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;
  - (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.

#### *Article 54*

#### *Waste management plans*

Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC, a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 55 and 62.

### **SECTION 2 – Waste prevention**

#### *Article 55*

#### *Prevention of packaging waste*

1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission, by
  - (a) 5% by 2030;
  - (b) 10 % by 2035; and
  - (c) 15% by 2040.
2. Member States shall implement measures aiming to prevent the generation of packaging waste and to minimise the environmental impact of packaging
3. To that end, Member States shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annexes IV and IVa to Directive 2008/98/EC or other appropriate instruments and measures including requiring the adoption of waste prevention plans on producers or producer responsibility obligations. Such measures shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.
4. No sooner than 8 years after the date of application of this Regulation, the Commission shall review the targets laid down in paragraph 1. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

### **SECTION 3**

#### **Register of producers and Extended Producer Responsibility**

*Article 56*  
*Register of producers*

1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements of this Chapter.  
The register shall provide links to other national registers on their website to facilitate, in all Member States, registration of producers or, where appointed, authorised representatives for the EPR.
2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall to that end submit an application for registration in each Member State where they make packaging available on the market for the first time. Where a producer has appointed a producer responsibility organisation as provided under Article 58(1), the obligations under this article shall be met by that organisation *mutatis mutandis* unless otherwise specified by the Member State.
3. The obligations under this Article may, on the producer's behalf, be met by an authorised representative for the EPR.
4. Producers shall not make available packaging on the market of a Member State, if they or, in case of authorisation, their authorised representatives for the EPR, are not registered in such Member State.
5. The application for registration shall include the information to be provided under Annex X, Part A. Member States may request additional information or documents, as necessary, to efficiently use the register referred to paragraph 1.
6. Where obligations under this Article are, on the producer's behalf, met by an authorised representative for the EPR that represents more than one producer, in addition to the information required under paragraph 5, it shall provide separate indications of the name and the contact details of each one of the represented producers.
7. The producer, or, where applicable, the producer's authorised representative for the EPR or the producer responsibility organisation appointed on behalf of the producers it represents shall report to the Register, by 1 March for each preceding calendar year, the information as set out in Annex X, Part B.
8. The competent authority:
  - (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website;
  - (b) shall grant registrations and provide a registration number within a maximum period of twelve weeks from the moment that all the information laid down in paragraphs 5 and 6 is provided;
  - (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6;
  - (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2;
  - (e) shall receive and monitor reporting by producers according to paragraph 7.

9. The producer, or, where applicable, the producer's authorised representative for the EPR or the producer responsibility organisation appointed on behalf of the producers it represents, shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation as regards the making available on the market within the territory of the Member State of the packaging referred to in the registration according to paragraph 8(b). A producer shall be excluded from the register if it has ceased to exist.
10. In order to ensure uniform conditions for the implementation of this Article, the Commission may adopt an implementing act establishing the format for registration and reporting to the register and the granularity of data to be reported, detailing the packaging types and material categories covered.

These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75.

*Article 57*  
*Extended Producer Responsibility*

1. Producers shall have extended producer responsibility for their packaging in compliance with the requirements of Article 8 and Article 8a of Directive 2008/98/EC and of this Section.
2. A producer shall appoint an authorised representative for the EPR in each Member State it makes packaging available for the first time. Such appointment shall be by written mandate.

*Article 58*  
*Producer Responsibility Organisation*

1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 59 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.
2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, they shall ensure a coverage across the whole territory of the Member State of the activities in accordance with Article 59 and 60. Member States shall entrust the competent authority or appoint an independent third party to oversee that producer responsibility organisations fulfil their obligation in a coordinated manner.
3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their authorised representatives.
4. In addition to the information referred to in point (e) of paragraph 3 of Article 8a of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every year and subject to commercial and industrial confidentiality, the information on the packaging made available on the market for the first time in the territory of a Member State market and levels of recovered and recycled materials relative to the amount of packaging, for which they have been performing producer responsibility obligations.

## Article 59

### *Authorisation on fulfilment of extended producer responsibility*

1. A producer, in the case of individual fulfilment of extended producer responsibility obligations, or the appointed producer responsibility organisations in the case of collective fulfilment of extended producer responsibility obligations, shall apply for an authorisation from the competent authority.
2. The Member States shall in its measures laying down administrative and procedural rules referred to in Article 52, establish the requirements and details of the authorisation procedure, which can be different for either individual or collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the information to be provided by producers or producer responsibility organisations to that end. The authorisation procedure shall include requirements on the verification of the arrangements put in place to ensure compliance with the requirements laid down in paragraph 3, and timeframes for this verification, which shall not exceed twelve weeks from the submission of a complete application dossier. This verification shall be done by an independent expert who shall issue a verification report on its result.
3. The measures to be established by Member States shall include measures ensuring that:
  - (a) the requirements laid down in points (a) to (d) of paragraph 3 of Article 8a of Directive 2008/98/EC are complied with;
  - (b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the return or collection, free of charge, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount of packaging made available on the market for the first time within the territory of a Member State by that producer or producers on whose behalf the producer responsibility organisation acts;
  - (c) the necessary arrangements to that end are concluded with distributors, public authorities or third parties carrying out waste management on their behalf;
  - (d) the necessary sorting and recovery capacity is available to ensure that packaging waste collected is subsequently subject to treatment and recycling;
  - (e) the requirement laid down in paragraph 6 of this Article is complied with.
4. The producer or the producer responsibility organisations shall notify the competent authority without undue delay of any changes to the information contained in the application for an authorisation, of any changes that concern the terms of the authorisation or of the permanent cessation of operations.
5. The competent authority may decide to revoke the relevant authorisation if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or notification of any changes that concern the terms of the authorisation, or has ceased operations.
6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide a guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case of non compliance with

the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. Member States may specify additional requirements on this guarantee.

#### ***SECTION 4 – Return, collection, deposit return systems***

##### *Article 60*

##### *Return and collection systems*

1. Member States shall ensure that systems are set up to provide for the return and/or collection of all packaging waste from the consumer, other final user, or from the waste stream in order to channel it to the most appropriate waste management alternatives, in line with the waste hierarchy laid down in Article 4 of Directive 2008/98/EC.

Those systems shall be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf. They shall cover the whole territory of the Member State taking into account population size, expected volume and composition of packaging waste, accessibility and vicinity to end users.

The systems shall also apply to imported products under non-discriminatory conditions, including the detailed arrangements and any tariffs imposed for access to the systems, and shall be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.

2. The measures referred to in paragraph 1 shall form part of a policy covering all packaging and packaging waste and shall take into account, in particular, requirements regarding the protection of the environment and consumer health, safety and hygiene.
3. Member States shall take measures to promote high quality recycling of packaging waste and to meet the necessary quality standards for the relevant recycling sectors. To that end, Article 11(1) of Directive 2008/98/EC shall apply to packaging waste, including from composite packaging.

##### *Article 61*

##### *Deposit and return systems*

1. By 1 January 2028, Member States shall take the necessary measures to ensure that deposit and return systems are set up for:
  - (a) single use plastic beverage bottles with the capacity of up to three litres; and
  - (b) single use metal beverage containers with a capacity of up to three litres.
2. The obligation laid down in paragraph 1 does not apply to packaging for::
  - (a) wine and spirit drinks; and
  - (b) milk and milk products listed in Annex I Part XVI of the Regulation (EU) No 1308/2013.
3. A Member State may be exempted from the obligation under paragraph 1 if the collection rate of the respective packaging format as reported to the Commission under Article 67 is above 90% by weight of such packaging placed on the market on

the territory of that Member State in two calendar years preceding the entry into force of the obligation under paragraph 1. Where such have not yet been reported to the Commission, the Member State shall provide a reasoned justification based on validated national data.

If the collection rate of such packaging in a Member State decreases and remains below 90% by weight of a given packaging format placed on the market for three consecutive calendar years, the Member State which has been granted the exemption, shall establish a deposit and return system compliant with this Regulation for the respective packaging format. The deposit and return system shall be established from the second calendar year following the year referred to in the first sentence.

Member States shall endeavour to establish and maintain deposit and return systems for other packaging formats, in particular for single use glass beverage bottles, beverage cartons and for reusable packaging. Member States shall endeavour to ensure that deposit and return systems for single use packaging formats, in particular for single use glass beverage bottles are equally available for reusable packaging where technically and economically feasible.

4. Member States shall ensure, that return points and opportunities for reusable packaging with a comparable purpose and format are not less convenient for end users than opportunities to return single use packaging to a deposit and return system.
5. By 1 January 2028, Member States shall ensure that all deposit and return systems meet the minimum criteria listed in Annex XI.

## **SECTION 5 – Re-use**

### *Article 62*

#### *Re-use*

1. Member States shall take measures to encourage the increase of systems to enable re-use of packaging and refill in an environmentally sound manner. These systems or refill shall be in conformity with the Treaty and their operation shall not compromise food hygiene or the safety of consumers.
2. The measures to be established by Member States may include:
  - (a) the use of deposit and return systems for types of packaging other than for those, for which deposit and return systems are mandated by Article 61(1);
  - (b) the use of economic incentives;
  - (c) requirements to final distributors to offer reusable food and beverage packaging as an alternative to single use packaging for equal conditions of use and price, and
  - (d) requirements to final distributors to offer a certain percentage of products in reusable packaging or through refill for products other than those in scope of Articles 26 and 27.

## **SECTION 6 – Recycling**



*Article 63*  
*Recycling targets*

1. In order to comply with the objectives of this Regulation, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:
  - (a) no later than 31 December 2025 a minimum of 65 % by weight of all packaging waste will be recycled;
  - (b) no later than 31 December 2025 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:
    - (i) 50 % of plastic;
    - (ii) 25 % of wood;
    - (iii) 70 % of ferrous metals;
    - (iv) 50 % of aluminium;
    - (v) 70 % of glass;
    - (vi) 75 % of paper and cardboard;
  - (c) no later than 31 December 2030 a minimum of 70 % by weight of all packaging waste will be recycled;
  - (d) no later than 31 December 2030 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:
    - (i) 55 % of plastic;
    - (ii) 30 % of wood;
    - (iii) 80 % of ferrous metals;
    - (iv) 60 % of aluminium;
    - (v) 75 % of glass;
    - (vi) 85 % of paper and cardboard.
2. Without prejudice to point (a) of paragraph 1, a Member State may postpone the deadlines for attaining the targets referred to in point (b)(i) to (vi) of paragraph 1 by up to five years, under the following conditions:
  - (a) the derogation is limited to a maximum of 15 percentage points from a single target or divided between two targets,
  - (b) as a result of the derogation, the recycling rate for a single target is not reduced below 30 %,
  - (c) as a result of the derogation, the recycling rate for a single target referred to in point (b)(v) and (vi) of paragraph 1 is not reduced below 60 %, and
  - (d) at the latest 24 months before the respective deadline laid down in point (b) of paragraph 1 of this Article, the Member State notifies the Commission of its intention to postpone the respective deadline and submits an implementation plan in accordance with Annex XII to this Regulation. The Member State may

combine that plan with an implementation plan submitted pursuant to point (b) of Article 11(3) of Directive 2008/98/EC.

3. Within three months of receipt of the implementation plan submitted pursuant to point (d) of paragraph 2, the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XII. The Member State concerned shall submit a revised plan within three months of receipt of the Commission's request.
4. No sooner than 8 years after the date of application of this Regulation, the Commission shall review the targets laid down in points (c) and (d) of paragraph 1 with a view to maintaining or, if appropriate, increasing them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.
5. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by:
  - (a) improving market conditions for such materials;
  - (b) reviewing existing regulations preventing the use of those materials.

#### *Article 64*

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

1. For the purpose of calculating whether the targets laid down in Article 63(1) have been attained:
  - (a) Member States shall calculate the weight of packaging waste generated and recycled in a given calendar year. Packaging waste generated in a Member State may be deemed to be equal to the amount of packaging placed on the market in the same year within that Member State;
  - (b) the weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances;
  - (c) composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit;
  - (d) packaging waste exported out of the Union shall be counted the attainment of the targets in Article 63(1) of this Regulation by the Member State in which it was collected only if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of this Regulation and that the recycling of packaging waste outside the Union took place under conditions that are broadly equivalent to those prescribed by the relevant Union legislation.

2. For the purposes of point (a) of paragraph 1, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation.
3. By way of derogation from the first subparagraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that:
  - (a) such output waste is subsequently recycled;
  - (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.
4. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in point (a) of paragraph 1 of this Article and points (a) and (b) of paragraph 2 of this Article are met. To ensure the reliability and accuracy of the data gathered on recycled packaging waste, the system may consist of electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC, technical specifications for the quality requirements of sorted waste, or average loss rates for sorted waste for various waste types and waste management practices respectively. Average loss rates shall only be used in cases where reliable data cannot be otherwise obtained and shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.
5. For the purposes of calculating whether the targets laid down in Article 63(1) have been attained, the amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.
6. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted towards the attainment of the recycling targets.
7. For the purposes of calculating whether the targets laid down in Article 63(1) have been attained, Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in the implementing act adopted pursuant to Article 11a(9) of Directive 2008/98/EC.
8. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted towards the attainment of the targets laid down in Article 63(1) by the Member State in which that packaging waste was collected.
9. Packaging waste exported from the Union shall count towards the attainment of the targets laid down in Article 63(1) of this Regulation by the Member State in which it was collected only if the requirements of paragraph 3 of this Article are met and if, in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of

the Council, the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of packaging waste outside the Union took place in conditions that are broadly equivalent to the requirements of the relevant Union environmental law.

#### *Article 65*

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

1. A Member State may decide to attain an adjusted level of the targets referred to Article 63(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging.

The adjusted level shall be calculated by subtracting:

- (a) from the targets laid down in points (a) and (c) of Article 63(1), the share of the reusable sales packaging referred to in the first subparagraph of this paragraph in all sales packaging placed on the market, and
- (b) from the targets laid down in points (b) and (d) of Article 63(1), the share of the reusable sales packaging referred to in the first subparagraph of this paragraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market.

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

2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in point (a), point (b)(ii), point (c) and point (d)(ii) of Article 63(1).

## **SECTION 7 - Information and reporting**

#### *Article 66*

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

1. In addition to the information referred to in Article 8a(2) of Directive 2008/98/EC and in Article 11 of this Regulation, producers or, where appointed in accordance with Article 58(1), producer responsibility organisations shall make available to users, including in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State:
  - (a) the role of consumers in contributing to waste prevention, including good practices;
  - (b) re-use arrangements available for packaging;
  - (c) the role of consumers in contributing to the separate collection of packaging waste materials including handling of packaging containing hazardous products or waste;
  - (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product;

- (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single use packaging, in particular plastic carrier bags;
  - (f) the composting properties and appropriate waste management options for compostable packaging;
2. The information referred to in paragraph 1 shall be up to date and provided by means of website or other means of electronic communication, public information and education programmes and campaigns, as well as through signposting in a language or languages, which can be easily understood by users and consumers.
  3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.

*Article 67*  
*Reporting to the Commission*

1. Member States shall report to the Commission for each calendar year the data on:
  - (a) the implementation of points (a) to (d) of Article 63(1) and data on reusable packaging,
  - (b) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category;
  - (c) collection rate of packaging covered by the obligation to establish deposit and return systems in Article 61(1),

Member States may provide data on the annual consumption of very thick plastic carrier bags per person.
2. In order to establish the methodology for the purpose of Article 6(5)(c) and Annex II, Part C of this Regulation, Member States shall report for each packaging category listed I Table 3 of Annex 2, Part C [recyclability, at scale], and for each calendar year the data on:
  - (d) recycling rates for packaging waste per packaging type as indicated in Table 3 Part C of Annex II,
  - (a) amounts of packaging per packaging type as indicated in Table 3 Part C of Annex II placed on the market.
3. The first reporting period shall concern:
  - (a) with respect to obligation laid down in paragraph 1, the first full calendar year after the entry into force of the implementing act that establishes the format for reporting to the Commission, in accordance with paragraph 7;
  - (b) with respect to obligation laid down in paragraph 2, the calendar year starting from 1 January 2028.
4. Member States shall make this data available electronically within 18 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the

Commission on the basis of Annex XIII in accordance with paragraph 7 of this Article.

5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That information shall be presented in the format established by the Commission in accordance with paragraph 7.

6. The data shall be accompanied by a report on the measures taken pursuant to Article 64(3) and (8), including detailed information about the average loss rates where applicable.

7. The Commission shall collect and review the information reported in accordance with this Article. The Commission shall publish a report assessing the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up six months after the first reporting of the data by Member States and every four years thereafter.

8. In order to ensure uniform conditions for the application of this Article the Commission shall, by 24 months after entry into force of the Regulation, adopt an implementing act:

(a) establishing the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person, and replacing Commission Implementing Decision (EU) 2018/896

(b) laying down the rules and format for reporting of data on:

(i) the implementation of points (a) to (d) of Article 63(1) and data on reusable packaging;

(ii) collection rate of packaging covered by the obligation in Article 61(1);

(iii) recycling rates and amounts of packaging placed on the market per packaging type referred to in referred to in Article 6(5)(c) and Table 3 Part C of Annex II;

(iv) annual consumption of plastic carrier bags referred to in paragraph 1(b)

and replacing Commission Decision 2005/270/EC.

This implementing act shall be adopted in accordance with the examination procedure referred to in Article 75.

9. Member States shall require all economic operators involved to provide competent authorities with reliable data on their sector as required in this Article. In doing so, Member States may take into account particular problems of small and medium-sized enterprises in providing detailed data.

#### *Article 68* *Packaging databases*

1. Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonized basis in order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation.

2. The databases referred to in paragraph 1 shall include the data laid down in Annex XIII and shall provide, in particular, information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States, including information on the toxicity or danger of packaging materials and components used for their manufacture.

## **Chapter X**

### **Safeguard procedures**

#### *Article 69*

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

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

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

The market surveillance authorities shall inform the relevant notified body accordingly.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.
3. The economic operator shall ensure that all appropriate corrective measures is taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.
4. Where the relevant economic operator does not take adequate corrective measures within the period referred to in the second subparagraph of paragraph 1, or the non-compliance persists, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the making available of the packaging on their national market, to withdraw the packaging from that market or to recall it.

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

5. The information to the Commission and the other Member States referred to in paragraph 4 shall be communicated through the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall include all available details, in particular the data necessary for the identification of the non-compliant packaging, the origin of the packaging, the nature of the non-compliance

alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. The market surveillance authorities shall also indicate whether the non-compliance is due to either:

- (a) failure of the packaging to meet the sustainability requirements, as applicable, set out in Articles 5 to 10 of this Regulation;
  - (b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 conferring a presumption of conformity.
6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the adopted national measure, of their objections.
  7. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Measures may specify a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.
  8. Member States shall ensure that appropriate restrictive measures are taken in respect of the packaging or manufacturer concerned, such as withdrawal of the packaging from their market, without delay.

#### *Article 70*

##### *Union safeguard procedure*

1. Where, on completion of the procedure set out in Article 69(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not.
2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators.  

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

If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.
3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.
4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common specifications referred to in



Article 32, the Commission shall, without delay, adopt implementing acts amending or repealing the common specifications concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75(3).

#### *Article 71*

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

1. Where, having carried out an evaluation under Article 69, a Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and where relevant the degree of non-compliance, to ensure that the packaging concerned, when made available on the market, no longer presents that risk/non-compliance, to withdraw the packaging from the market or to recall it.
2. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.
3. The Member State shall immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the packaging, the nature of the risk involved and the nature and duration of the national measures taken.
4. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, proposing appropriate measures.

On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 75(4).

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

#### *Article 72*

##### *Formal non-compliance*

1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerning:
  - (c) the EU declaration of conformity has not been drawn up
  - (d) the EU declaration of conformity has not been drawn up correctly;
  - (e) the QR code referred to in Article 11 does not provide access to the required information in accordance with Article 11;
  - (f) the technical documentation is not available, is not complete or contains errors;

- (g) the information referred to in Article 14(6) or Article 17(3) is absent, false or incomplete;
  - (h) any other administrative requirement provided for in Article 14 or Article 17 is not fulfilled;
  - (i) the requirements on restrictions on uses of certain packaging formats and on excessive packaging in Articles 22 and 23 are not complied with;
  - (j) in relation to reusable packaging, the requirement on the establishment, operation and participation in a system for re-use referred to in Article 25 are not fulfilled;
  - (k) in relation to refill, the information requirements in Article 26(1) and (2) and the requirements on the refill stations in Article 26(3) are not fulfilled;
  - (l) the re-use and refill targets in Article 27 are not achieved.
2. Where the non-compliance referred to in paragraph 1, points (a) to (f) persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the packaging being made available on the market or ensure that it is recalled or withdrawn from the market.
  3. Where the non-compliance referred to in paragraph 1, points (g) to (j) persists, Member States shall apply the rules on penalties applicable to infringements of this Regulation which are laid down by the Member States in pursuance of the requirement in Article 77 of this Regulation.

## **Chapter XI**

### **Green public procurement**

#### *Article 73*

#### *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 public contracts for packaging or packaged products or for services using packaging or packaged products in situations covered by those Directives, take account of the environmental impacts of packaging over its life cycle with a view to ensuring that such impacts are kept to a minimum.
2. The obligation set out in paragraph 1 shall apply to any procedure for procurement by contracting authorities or contracting entities for the awarding public contracts for packaging or packaged products or for services using packaging or packaged products. 12 months after the entry into force of the Regulation, these contracting authorities and entities are obliged to include technical specifications or award criteria going beyond the provisions in Articles 5 to 10 to ensure that the chosen packaging has significantly lower environmental impacts compared to competing packaging.
3. The Commission shall by [60 months] after entry into force of the Regulation, adopt delegated acts in accordance with Article 74 supplementing this Regulation by establishing minimum mandatory green public procurement criteria based on the requirements set out in Article 5 to 10 and on the following categories of criteria :

- (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.

These criteria shall apply to packaging or packaged products and to services using packaging or packaged products in the context of all public contracts falling into the scope of Directive 2014/24/EU and Directive 2014/25/EU, and shall be developed in accordance with the principles contained therein. The contracting authorities or contracting entities shall use these criteria at the latest one year after the entry into force of the respective delegated act.

## **Chapter XII**

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

#### *Article 74*

#### *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 5(5), 6(10), 7(5), 8(5) and 70(3) shall be conferred on the Commission for a period of ten years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.
3. The delegation of power referred to in Articles (5), 6(10), 7(5), 8(5) and 70(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 5(5), 6(10), 7(5), 8(5) and 70(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they

will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 75*  
*Committee procedure*

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

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

## **Chapter XIII** **Amendments**

*Article 76*  
*Amendments to Regulation (EU) 2019/1020*

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

- (a) in Article 4(5),
  - (i) the text “(EU) 2016/425 <sup>(35)</sup> and (EU) 2016/426 <sup>(36)</sup>” is replaced by the following:

“(EU) 2016/425 (\*), (EU) 2016/426 (\*\*) and (EU) [*year of adoption of this Regulation*]/...(\*\*\*)”
  - (ii) the text “2014/53/EU<sup>(50)</sup> and 2014/68/EU<sup>(51)</sup>” is replaced by the following:

“2014/53/EU(\*\*\*\*), 2014/68/EU (\*\*\*\*\*) and (EU) 2019/904(\*\*\*\*\*)”
- (b) in Annex I
  - (i) point 9 is deleted
  - (ii) two new points are added after point 70 as follows:

“Regulation (EU) [*year of adoption of this Regulation*]/... on packaging and packaging waste, amending Regulation (EU) No 2019/1020 and repealing Directive 94/62/EC(\*\*\*)]”

“Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1)”

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

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\* Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC (OJ L 81, 31.3.2016, p. 51)

\*\* Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC (OJ L 81, 31.3.2016, p. 99)

\*\*\* [*Regulation of the European Parliament and of the Council on packaging and packaging waste, amending Regulation (EU) No 2019/1020 and repealing Directive 94/62/EC* (For the Publications Office to fill in the OJ publication details)]

\*\*\*\* Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62)

\*\*\*\*\* Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (recast) (OJ L 189, 27.6.2014, p. 164)

\*\*\*\*\* Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1)

## **Chapter XIV**

### **Final provisions**

#### *Article 77*

##### *Penalties*

By 24 months after entry into force of the Regulation, Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Failure to comply with the requirements of Articles 22-27 shall be sanctioned by an administrative fine imposed on the relevant economic operator.

Member States shall by one year after date of application of this Regulation, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

#### *Article 78*

##### *Evaluation*

No sooner than 8 years after the date of application of this Regulation, the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of products. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report. Where the Commission finds it appropriate, the report shall be

accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation.

*Article 79*  
*Repeal and transitional rules*

Directive 94/62/EC is repealed with effect from 12 months after the entry into force of this Regulation. However, its:

- (a) Article 8(2) shall continue to apply until 24 months after the entry into force of the implementing act under Article 11(5);
- (b) Article 5, paragraphs 2 and 3, Article 6(1), letters (d) and (e), Article 6a, and Article 12, paragraphs 3a, 3b, 3c and 4, shall continue to apply until 30 months after the entry into force of this Regulation, except as regards the transmission of data to the Commission which shall continue to apply until 48 months after the entry into force of this Regulation.

References to the repealed Directive shall be construed as references to this Regulation.

*Article 80*  
*Entry into force and application*

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

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

#### **1.1. Title of the proposal/initiative**

#### **1.2. Policy area(s) concerned**

#### **1.3. The proposal/initiative relates to:**

#### **1.4. Objective(s)**

*1.4.1. General objective(s)*

*1.4.2. Specific objective(s)*

*1.4.3. Expected result(s) and impact*

*1.4.4. Indicators of performance*

#### **1.5. Grounds for the proposal/initiative**

*1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

*1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

*1.5.3. Lessons learned from similar experiences in the past*

*1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

*1.5.5. Assessment of the different available financing options, including scope for redeployment*

#### **1.6. Duration and financial impact of the proposal/initiative**

#### **1.7. Management mode(s) planned**

### **2. MANAGEMENT MEASURES**

#### **2.1. Monitoring and reporting rules**

#### **2.2. Management and control system(s)**

*2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

*2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them*

*2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

**2.3. Measures to prevent fraud and irregularities**

**3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

**3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected**

**3.2. Estimated financial impact of the proposal on appropriations**

*3.2.1. Summary of estimated impact on operational appropriations*

*3.2.2. Estimated output funded with operational appropriations*

*3.2.3. Summary of estimated impact on administrative appropriations*

*3.2.4. Compatibility with the current multiannual financial framework*

*3.2.5. Third-party contributions*

**3.3. Estimated impact on revenue**



## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council on packaging and packaging waste replacing and repealing Directive 1994/62/EC of the European Parliament and of the Council

#### 1.2. Policy area(s) concerned

Policy area: 09 Environment & Climate Change

#### 1.3. The proposal/initiative relates to:

a new action

a new action following a pilot project/preparatory action<sup>71</sup>

the extension of an existing action

a merger or redirection of one or more actions towards another/a new action

#### 1.4. Objective(s)

##### 1.4.1. General objective(s)

The general objective of the legislative proposal is to reduce negative environmental impacts of packaging and packaging waste and improve the functioning of the internal market, thus boosting efficiency gains in the sector. The aim is to create a resilient value chain, starting from the design of the packaging till its re-use or -integration in high quality products, thus creating innovative, “green” jobs in a low carbon packaging industry.

##### 1.4.2. Specific objective(s)

The specific objectives to meet this general objective are to:

Reduce the generation of packaging waste

Promote a circular economy for packaging in a cost-efficient way

Promote the uptake of recycled content in packaging

##### 1.4.3. Expected result(s) and impact

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

The modelling of the preferred option (Option 2+) suggests for 2030 a reduction of waste generation by 18 million t compared to the baseline, and 3.1 million t compared to the 2018. The reduction in GHG is around 26 million tonnes CO<sub>2</sub>e in

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<sup>71</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

2030 (almost half of the total annual emissions of Hungary), and monetised environmental externalities avoided more than EUR 7 billion per year.

Reduced waste management costs of EUR 4.3 billion, additional costs of reuse schemes and DRS of EUR 5.3 billion and reduced sales and consumption of packaging of EUR 47.2 billion result in overall economic savings of EUR 46.2 billion. In reverse, this option results in additional annual administrative costs of EUR 1.3 billion, mainly for certification of the packaging recyclability and of the recycled content in plastic packaging. The complex impacts on employment are estimated to result in a slight net increase of about 29.000 “green” jobs.

Only the measures on recycled content fostering resource efficiency reduce fossil fuel requirements of the EU by 4.24 million t per year (about 1/3 of the fossil fuel needed currently for plastic packaging production). The total decrease in fossil fuel needs of Option 2+ is difficult to quantify but the fact that the GHG savings of the recycled content measure represent 31% of the total GHG savings indicates an order of magnitude of 13 million t fossil fuel savings. Further, the measures to improve recyclability increase the overall packaging recycling rate from 66.5% in 2018 to 73% in 2030, whereas landfill is decreased from 18.7% to 9.6%. This push for circularity results in significantly reduced needs of virgin raw materials such as wood, glass and aluminium.

The preferred option package foresees specific treatment of SME`s to ensure that the impacts on them are proportionate. Requirements would apply in a non-discriminatory manner to EU and non-EU companies. The measures are not more trade restrictive than necessary to fulfil their environmental objectives.

Overall, moving towards a more circular economy within packaging would deliver benefits such as empowering consumers, reducing negative impacts on the environment and human health, reducing the EU`s import dependency for raw materials and fossil fuel, stimulating innovation and boosting economic growth, and finally reducing unnecessary household expenditures.

#### 1.4.4. *Indicators of performance*

*Specify the indicators for monitoring progress and achievements.*

The indicators of progress and achievement of the objectives will be:

Increased quality of recyclates (secondary raw materials)

Improved recycling efficiencies and higher material recovery for packaging materials (e.g. plastic, metal, glass, paper/cardboard, textile, wood, ceramics...)

All packaging will be fully recyclable by 2030

Extended Responsibility Schemes fees are properly modulated

Mandatory targets for recycled content for plastic packaging

Reuse and refill targets for certain sectors

### 1.5. **Grounds for the proposal/initiative**

#### 1.5.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

The detailed requirements would need to be adopted through implementing/delegated acts in a time horizon of 3-8 years. A series of actions in terms of mandates,

delegated or implementing decisions and impact assessment reports will stem from this proposed regulation. These will cover verification of compliance with sustainability requirements, conformity checking system, sustainability requirements, as well as information and labelling. A detailed list of these envisaged actions is provided below:

- Amend reporting obligations
- Develop a Delegated Act on establishing design for recycling requirements for certain packaging categories and establishing harmonised rules of reporting to extended reporting responsibility schemes
- Develop a Delegated Act on harmonised calculation and verification rules for the recycled content in packaging
- Develop a Delegated Act on harmonisation rules for the labelling requirements and formats for consumer sorting, reusable packaging, recycled content, compostable and possibly a QR code
- Develop a Delegated Act on packaging minimisation to amend the performance criteria and minimisation documentation of packaging
- Develop an Implementing Act on deposit return scheme (DRS) to establish methodology for the calculation and verification of collection rates under DRS
- Develop an Implementing Act on reporting formats to amend the Commission Implementing Decision (EU) 2018/896 and Commission Decision 2005/270/EC to introduce additional reporting of annual consumption of various types of plastic bags and reporting formats to the Commission
- Develop a Delegated Act on restrictions on substances of concern in packaging
- Develop an Implementing Act on Extended Responsibility Schemes (EPR) to establish harmonised rules of reporting to the EPR schemes

- 1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at European level (ex-ante)

Recent internal market notifications from the Member States show that the implementation of some not-fully-harmonised provisions of the Directive, such as labelling requirements, or vague requirements, such as essential requirements on packaging minimisation or recyclability, are causing additional cost to the economic operators. These are strongly calling for further harmonisation not only to be able to work more cost efficient, but also to overcome regulatory uncertainty about the environmental requirements for packaging, so that appropriate infrastructure investments can be made

Expected generated Union added value (ex-post)

The problems cannot be sufficiently addressed by the Member States alone. The EU packaging market is in many respects one large market, rather than 27 individual markets. The packaging market is characterised by high-levels of cross-border trade between Member States, with many producers placing packaging on the market in

multiple Member States. National initiatives could perhaps bring certain benefits but would inevitably contribute to further fragmentation of the internal market. Similarly, the packaging-related environmental concerns are widespread, with key underlying causes being common across all Member States.

There is clear added value in setting common requirements at EU level, as this will ensure a harmonised and well-functioning internal market across all Member States and, therefore, a level playing field for packaging producers. With requirements and targets set at EU level, the move towards packaging being reusable or recyclable in an economically viable manner will take place in a coherent way in all Member States, creating a larger and more efficient market. Harnessing its strength to support the move towards a circular economy for packaging will support the achievement of targets in a more cost-effective way.

Economies of scale will be achieved through consistent approaches to, for example, influencing packaging design in such a way that packaging can be more cost-efficiently collected, sorted and recycled everywhere in the EU. This approach will be reinforced by harmonised criteria for modulation of EPR fees, which will provide an additional economic impetus for compliance and increased clarity as to the roadmap for investments in circular packaging design and innovative sorting and recycling technologies. Member State action alone could not achieve such harmonisation and thus economies of scale. The proposed measures will not go beyond what is necessary to provide regulatory certainty while ensuring a high level of protection of health and of the environment. EU action is therefore justified and necessary.

The new Regulation will make it explicit that, in the future, the adoption of restriction measures for substances in packaging will be taken following assessments that will be carried out by European Chemicals Agency (ECHA), and no longer as individual activities part of DG ENV working programme. ECHA has by large the needed experience for this task and these assessments constitute additional work area for this Agency.

### 1.5.3. *Lessons learned from similar experiences in the past*

A number of related initiatives are very important for packaging: The Waste Framework Directive (WFD) establishes horizontally applicable concepts related to waste generation and waste management, including waste treatment, recycling and recovery. It creates the waste hierarchy, giving priority to waste prevention over reuse and/or recycling, subsequently recycling over other recovery options and final disposal via landfilling. Further, it obliges Member States to have in place functioning Extended Producer's Responsibility (EPR) schemes, which ensure that producers of products bear responsibility for the management of the waste stage of their products. In the Circular Economy Action plan (CEAP), the Commission committed to assess feasibility of harmonising the separate waste collection systems in the Member States.

The Single-Use Plastic Directive (SUPD) focusses -amongst other plastic products- also on certain plastic packaging (e.g. carrier bags, beverages cups, food and beverage containers including bottles) with the main purpose to prevent littering and its environmental impact. It contains product bans, the obligation for Member States to ensure the separate collection for recycling and to reduce the volume of certain groups of single use plastics. Finally, it established minimum recycled content targets for single use plastic beverage bottles.

Another legal act with respect to plastic packaging is the 2020 Own Resource Decision (ORD), which established an own resource based on plastic packaging waste not recycled in a specific Member States, irrespective whether this Member States meets the target or not. The ORD creates an incentive for Member States to put in place measures in the pursuit of high recycling rates for plastic packaging. It gives flexibility to the Member States in deciding on their efforts to have high plastic recycling rates in line with the WFD.

However, the Packaging and Packaging Waste Directive (PPWD) is the main EU-level instrument dealing with placing on the market of packaging and requirements for its end-of life. There are also provisions on packaging or relevant to it in other EU legislation. Therefore, the revision of the PPWD is rather comprehensive dealing with packaging waste prevention, packaging recyclability, bio-based, compostable and bio-degradable packaging, use of recycled content and hazardous substances in packaging, as well as enabling measures, such as labelling for separate collection, packaging related green public procurement requirements and EPR requirements.

#### 1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The European Commission is proposing a major recovery plan based on a reinforced long-term budget for the next Multiannual Financial Framework and a new recovery instrument, Next Generation EU. The European Green Deal will be the basis of the EU's recovery strategy. This includes circular economy, which is the main driver of increasing material recovery and improving quality of secondary raw materials.

The support and commitment of the European Commission in the research in the field of circular economy and in particular of better design of packaging and improving material recovery is expressed by the number of projects funded under the H2020 programme (over to 100 projects) and the financial contribution to their implementation (around 500 Million Euros). The results of these projects will support and promote circularity and recyclability of packaging formats.

It is expected that the EU will continue to promote the research in this and in related fields in the next MFF.

#### 1.5.5. *Assessment of the different available financing options, including scope for redeployment*

In theory, national legislations in Member States could have been established. However, there would have been to guarantee of consistent application across the EU and would inevitably contribute to further fragmentation of the internal market.

Tasks related to development of legislation at the EU level cannot be externalised.

### 1.6. **Duration and financial impact of the proposal/initiative**

#### **limited duration**

- in effect from [DD/MM]YYYY to [DD/MM]YYYY
- Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

✓ **unlimited duration**

- Implementation with a start-up period from 2023 to 2027,
- followed by full-scale operation.

**1.7. Management mode(s) planned<sup>72</sup>**

✓ **Direct management** by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies

**Shared management** with the Member States

**Indirect management** by entrusting budget implementation tasks to:

- third countries or the bodies they have designated;
- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;
- bodies referred to in Articles 70 and 71 of the Financial Regulation;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

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<sup>72</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

Standard monitoring and reporting rules for EU subsidies for this type of expenditure will apply.

### **2.2. Management and control system(s)**

2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

N/A

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

N/A

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

N/A

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

N/A

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

*In order of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. <sup>73</sup>	from EFTA countries <sup>74</sup>	from candidate countries <sup>75</sup>	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
3	09 02 02 Circular Economy and quality of life	Diff.	YES	NO	/NO	NO
7	20 01 02 01 – Remuneration and allowances	Non-diff.	NO	NO	NO	NO
7	20 02 01 01 Contract staff	Non-diff.	NO	NO	NO	NO
7	20 02 01 03 – National civil servants temporarily assigned to the institution	Non-diff.	NO	NO	NO	NO
7	20 02 06 01 - Mission and representation expenses	Non-diff.	NO	NO	NO	NO
7	20 02 06 02 – Meetings, expert groups	Non-diff.	NO	NO	NO	NO
7	20 02 06 03 – Meetings of committees	Non-diff.	NO	NO	NO	NO

- New budget lines requested: not applicable

<sup>73</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>74</sup> EFTA: European Free Trade Association.

<sup>75</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.



### 3.2. Estimated financial impact of the proposal on appropriations

#### 3.2.1. Summary of estimated impact on operational appropriations

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	3	<b>Natural resources and environment</b>
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European Chemicals Agency			2023	2024	2025	2026	2027	TOTAL
Title 1: Staff expenditure	Commitment	(1a)	0	0,187	0,191	0,195	0	0.573
	Payments	(2a)	0	0,187	0,191	0,195	0	0.573
Title 2: Infrastructure	Commitment	(1b)	0	0,045	0,046	0,047	0	0.138
	Payments	(2)b	0	0,045	0,046	0,047	0	0.138
Title 3: Operational expenditure	Commitment	(1c)	0	0.158	0.158	0.158	0	0.475
	Payments	(2c)	0	0.158	0.158	0.158	0	0.475
<b>TOTAL appropriations for European Chemicals Agency</b>	Commitments	=1a+1b +1c	0	0,390	0,395	0,400	0	1.185
	Payments	=2a+2b +2c	0	0,390	0,395	0,400	0	1.185

## **Notes on ECHA expenditure:**

**Title 1** The cost per FTE is calculated:

for temporary agents (AD/AST) at the average staff cost of EUR 157 000/y during three years for multiplied by 1,17 (co-efficient for the cost of living in Helsinki).

This will be needed to make sure that sufficient resources would be earmarked for regulating the necessary battery related substances without competing with REACH priorities

– with an annual 2% inflation rate applied as of 2024.

**Title 2** includes expenses for utilities, rental and services, and end-user IT and communication needs e.g. laptops, software licences, telephony, hosting.

**The Title 3** costs comprise:

the study is estimated at € 400.000 (over 3 years) to outsource part of such research needs.

A sum of € 25.000 is also required to cover the cost of the rapporteurs (Member State experts guiding the dossiers through the opinion-making in the RAC and SEAC committees) for each restriction, and for covering a proportionate part of the full cost of organising the RAC and SEAC meetings (travel, accommodation and daily allowance costs: cost calculated based on the average time/effort needed for a restriction dossier in both committees). The aforementioned resources have been estimated using a calculation model which takes account of relevant experience from tasks executed by ECHA under other regulatory frameworks (e.g. REACH, CLP, BPR) and from the implementation of the existing national approaches where relevant. It sets out the resources that will be needed by ECHA over 2023-2027, in order to handle the foreseen tasks.

The required increase of the EU contribution to ECHA will be compensated by a corresponding reduction in the envelope of the LIFE programme (budget line 09.0202 – *Circular Economy and Quality of Life*).

<b>Heading of multiannual financial framework</b>	<b>3</b>	<b>Natural resources and environment</b>
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DG: ENV			2023	2024	2025	2026	2027	TOTAL
○ Operational appropriations								
09 02 02 Circular Economy and quality of life	Commitments	(1b)	0,98	0,98	0,98	0,78	0,78	4.5
	Payments	(2b)	0,98	0,98	0,98	0,78	0,78	4.5
<b>TOTAL appropriations 1-6 for DG ENV and ECHA</b>	Commitments	=1a+1b	0,980	1,37	1,375	1,180	0,780	5.685
	Payments	=2a+2b	0,980	1,37	1,375	1,180	0,780	5.685

DG ENV costs stem from procurement needs to finance supporting analyses to support developing methodologies for implementing and delegated acts (Article 6(7)–Delegated act on sustainability requirements / recyclable packaging, Article 6(7)-Delegated act on sustainability requirements / recyclable packaging, Article 7(3)- minimum recycled content in plastic packaging, Article 9-Delegated act on packaging minimisation, Article 10(7)-Delegated act on Labelling of packaging, Articles 56(4)-Implementing act on systems for reuse and refill, Article 60-Implementing act on extended producer responsibility schemes, Article 68-Implementing act on deposit return scheme, Article 68-Implementing act on reporting formats, Article 5(6)-Delegated act on restrictions on substances of concern in packaging). In addition, DG ENV will carry out the general implementation and follow-up to the Regulation and the necessary negotiations of the Regulation.

In addition, DG ENV costs stem from needs to organise stakeholder meetings and workshops in the course of the work for drawing up the design for recycling criteria for the 29 identified packaging categories (estimated at EUR 2.4 million for the period 2023-2027), procurement needs for data collection and analysis on recyclability of packaging types, establishing a methodology for recycled content in plastic packaging etc. (estimated 2.1 million EUR for the period 2023-2027).

<b>Heading of multiannual financial framework</b>	<b>7</b>	'Administrative expenditure'
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This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the [Annex to the Legislative Financial Statement](#) (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		2023	2024	2025	2026	2027	TOTAL
DG: <ENV>							
○ Human resources		0.644	0.732	0.732	0.817	0.817	3,742
○ Other administrative expenditure		0,484	0,484	0,484	0,484	0,484	<b>2.420</b>
<b>TOTAL DG &lt;ENV&gt;</b>	Appropriations	<b>1,128</b>	<b>1,216</b>	<b>1,216</b>	<b>1,301</b>	<b>1,301</b>	<b>6.162</b>

The above costs refer to human resources for DG ENV and other administrative expenditure such as missions, technical committees and expert groups. These costs are explained in detail in Annex V, section 4.2.

TOTAL appropriations under HEADING 7 of the multiannual financial framework	Year	2023	2024	2025	2026	2027	TOTAL 2023-2027
TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	1,128	1,216	1,216	1,301	1,301	6.162

EUR million (to three decimal places)

3.2.2. *Estimated output funded with operational appropriations*

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL		
	OUTPUTS																		
	Type <sup>76</sup>	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost	
SPECIFIC OBJECTIVE No 1 <sup>77</sup> ...																			
- Output																			
- Output																			
- Output																			
Subtotal for specific objective No 1																			
SPECIFIC OBJECTIVE No 2 ...																			
- Output																			

<sup>76</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>77</sup> As described in point 1.4.2. 'Specific objective(s)...'

Subtotal for specific objective No 2																
<b>TOTALS</b>																

3.2.3. *Estimated impact on ECHA's human resources and administrative appropriations*

N/A

3.2.3.1. Estimated requirements on administrative appropriations in the ECHA

3.2.4. (a) *Summary of estimated impact on administrative appropriations*

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:
- Staff requirements in ECHA (million EUR to three decimal places)
- 

EUR million (to three decimal places)

ECHA	2023	2024	2025	2026	2027	TOTAL
------	------	------	------	------	------	-------

Temporary agents (AD grades)	0	0,187	0,191	0,195	0	0.573
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TOTAL	0	0,187	0,191	0,195	0	0.573
-------	---	-------	-------	-------	---	-------

The cost per FTE is calculated:

- for temporary agents (AD/AST) at the average staff cost of EUR 157 000/y for multiplied by 1,17 (co-efficient for the cost of living in Helsinki);

EUR million (to three decimal places)

	2023	2024	2025	2026	2027
--	------	------	------	------	------

Temporary agents (AD grades)	1	1	1	1	1
Temporary agents (AST grades)					
Contract staff					
Seconded National Experts					

TOTAL	1	1	1	1	1
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

### 3.2.5.

### 3.2.6. (b) Estimated requirements of human resources for DG ENV

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

EUR million (to three decimal places)

	2023	2024	2025	2026	2027	TOTAL
--	------	------	------	------	------	-------

Temporary agents (AD grades)	0.471	0.471	0.471	0.471	0.471	2.355
Temporary agents (AST grades)						
Contract staff	0.085	0.085	0.085	0.17	0.17	0.595
Seconded National Experts	0.088	0.176	0.176	0.176	0.176	0.792

TOTAL	0.644	0.732	0.732	0.817	0.817	3,742
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*Estimate to be expressed in full time equivalent units*

	2023	2024	2025	2026	2027
20 01 02 01 (Headquarters and Commission's Representation Offices)	3	3	3	3	3
20 01 02 03 (Delegations)					
01 01 01 01 (Indirect research)					
01 01 01 11 (Direct research)					
Other budget lines (specify)					



20 02 01 (AC, END, INT from the 'global envelope')	2.0	3.0	3.0	4.0	4.0
20 02 03 (AC, AL, END, INT and JPD in the delegations)					
<b>XX</b> 01 xx yy zz <sup>78</sup>	- at Headquarters				
	- in Delegations				
01 01 01 02 (AC, END, INT - Indirect research)					
01 01 01 12 (AC, END, INT - Direct research)					
Other budget lines (specify)					
<b>TOTAL</b>	<b>5.0</b>	<b>6.0</b>	<b>6.0</b>	<b>7.0</b>	<b>7.0</b>

**XX** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	3 AD posts are needed (existing staff) for the negotiation and general implementation of the regulation and the different preparatory work and drafting of secondary legislation according to the deadlines proposed in the Packaging and Packaging Waste Regulation.
External staff	<p>The END post and the CA are needed to perform the technical work, including:</p> <ul style="list-style-type: none"> <li>- continuous review on material availability to keep the recycled content targets in line with market developments,</li> <li>- preparation of the delegated acts on design for recycling criteria for certain packaging categories</li> <li>- Preparation of the delegated act on establishing methodology for calculation and verification of minimum recycled content in plastic packaging</li> <li>- Preparation of implementing act on establishing methodology for reporting and monitoring reuse and refill targets</li> <li>- preparation of implementing acts on establishing methodology for calculation and verification of collection rates under DRS</li> <li>- establish implementing acts establishing formats to report to competent authorities and the Commission</li> <li>- Preparation of delegated acts on Establishing harmonized specifications for the labelling requirements and formats for consumer sorting, reusable packaging, recycled content, compostable and possibly a QR code.</li> </ul> <p>The execution of these tasks require 3 additional contractual staff, 1 SNE and 2 CAs</p>

<sup>78</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

Description of the calculation of cost for FTE units should be included in the Annex V, section 3.

### 3.2.7. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

- can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts. Please provide an excel table in the case of major reprogramming.

The additional tasks the Commission has to assume, require an additional needs for resources as regards the amount of the Union's contribution and the establishment plan posts of the European Chemicals Agency. These will be financed by the budget line 09.0202 – Circular Economy and Quality of Life

The costs foreseen under the budget line 09 02 02 will be borne by the LIFE programme and will be planned under the annual management plan exercises of DG ENV. The human resources required shall be preferably met by an additional allocation under the annual allocation procedure of human resources.

- requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

- requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

### 3.2.8. *Third-party contributions*

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year N <sup>79</sup>	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

<sup>79</sup> Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

### **3.3. Estimated impact on revenue**

- ✓ The proposal/initiative has no financial impact on revenue.