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Subject:	Proposal for a Regulation of the European Parliament and of the Council on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC – General Approach

The following additional corrections are made to the text contained in the Annex to doc. **16706/23 INIT**:

1. Recital 40 should read:

‘(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions **and enable recyclability**. The manufacturer of packaging should assess the packaging against the performance criteria, as listed in Annex IV of this Regulation. In view of the objective of this Regulation to reduce packaging and packaging waste generation and to improve circularity of packaging across the internal market, it is appropriate to further specify the existing criteria and to make them more stringent. The list of the packaging performance criteria, as listed in the existing harmonised standard EN 13428:200~~0~~**4**[1], should therefore be modified. **However, before there is a new or updated harmonised standard available, the existing standard, EN 13428:200~~0~~4, can be used.** While marketing and consumer acceptance remain relevant for packaging design, they should not be part of performance criteria justifying on their own additional packaging weight and volume. However, this should not compromise product specifications for craft and industrial products and food and agricultural products **with packaging is** ~~that are~~ registered and protected under the EU geographical indication protection scheme, as part of the Union’s objective to protect cultural heritage and traditional know-how~~.~~ **including** ~~**or covered by other quality schemes referred to in Regulation EU No 1151/2012,**~~ **Regulation EU No 1308/2013 for wine,** ~~**and**~~ **Regulation EU No 2019/787 for spirit drinks, or covered by quality schemes referred to in Regulation EU No 1151/2012. It should also not compromise packaging design protected under Union or Member States design or trademark legislation** ~~**protected with design rights under the Union legislation, by a Community design under Council Regulation (EC) 6/2002, design rights falling under the scope of applications of Directive 98/71/EC,**~~ **or international agreements having effect in one of the Member State. This exception is justified only to the extent that the**

1 Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction.

new rules on packaging minimisation will affect the shape of the packaging in such a way that the trademark can no longer distinguish the marked good from those of another undertaking, and the design can no longer keep its new and individual characteristics. In order to avoid the risk of abuse, the exemption should apply only to trademark and design rights protected before [*date of entry into force of this Regulation*]. On the other hand, recyclability, the use of recycled content, and re-use may justify additional packaging weight or volume, and should be added to the performance criteria. Packaging with double walls, false bottoms and other characteristics only aimed to increase the perceived product volume should not be placed on the market, as it does not meet the requirement for packaging minimisation. The same rule should apply to superfluous packaging not necessary for ensuring packaging functionality.'

2. Article 9, paragraph 2 should read:

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

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

3. Article 26, paragraph 15 should read:

'15. ~~Economic operators~~ **Final distributors** shall be exempted from the obligation to meet the targets in paragraphs 2 to ~~6~~ **4** if, during a calendar year, they have a sales area of not more than 100 m^2~~2, including also all storage and dispatch areas~~ **or if the sales area is located on an island with a population of less than 2000 inhabitants**.

In case the final distributor has more than one sales area, and only one or some of those areas are located on such an island, the relevant beverages and products made available on the market within a territory of a Member State in those sales area shall not be calculated for the purpose of meeting the targes under paragraphs 2 to 4.'

4. A new paragraph 15ab should be inserted after Article 26, paragraph 15aa:

'**15ab. Under the conditions set out in Article 45, Member States may set targets for final distributor having a sales area located on an island with a population of less than 2000 inhabitants covering beverages and products falling under paragraphs 2 to 4 of this Article to the extent that those additional targets are necessary for the Member State to achieve one or more of the targets in Article 38.**'

5. Article 44, paragraph 2, should read:

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

The obligation set out in the first sentence of the first subparagraph ~~**Such obligation** The obligation laid down in paragraph 1~~ does not apply to packaging for:

(a) wine, aromatised wine products, **fruit wine** and spirit drinks;

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

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

6. Annex X, point (da) is deleted.