



Council of the European Union
General Secretariat

Brussels, 02 August 2023

Interinstitutional files:
2022/0396 (COD)

WK 10473/2023 INIT

REDACTED DOCUMENT
ACCESSIBLE TO THE PUBLIC
(31.03.2025). ONLY MARGINAL
PERSONAL DATA HAVE BEEN
REDACTED.

ENV
MI
ENT
IND

LIMITE

CONSUM
COMPET
CODEC
AGRI
FOOD

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 9205/2023, WK 9986/2023
Subject:	Packaging and Packaging waste: Follow-up to the WPE meeting on 22 and 23 June 2023 - comments from delegations

Following the call for comments on the above set out with WK 9205/2023, delegations will find attached comments from BG, CZ, EE, HU, IE, PL and PT delegations.

WK 10473/2023 INIT

LIMITE

EN

BG COMMENTS**ANNEX I – PART 2 OF THE TEXT REV01. CLUSTER 2, 4 AND 5.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 2,4 and 5 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

BG comments

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		

REV 01_text proposal	Drafting Suggestions	Motivation
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		
Cluster 2 – Labelling, marking and information requirements		
<i>Recitals corresponding cluster 2:</i>		
(44) It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles.		
(45) To facilitate consumers in the sorting and disposing of	To facilitate consumers in the sorting	In the case of packaging covered

packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. It is only specifically home-compostable packaging which is suitable for home-composting. This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be	and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting. This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. ~~It is also necessary to harmonise symbols associated with the mandatory deposit and return systems set up after the entry into force of this Regulation.~~ Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging, and for reusable packaging. Similarly, packaging subject to deposit and return systems	by a DRS, the only relevant information for the consumer to be able to properly dispose of the packaging is the DRS label or marking. The overlap of several labels related to the packaging waste management could confuse the consumer and lead to reduced collection rates of packaging covered by a DRS. It would be the case for example if consumers start disposing of their DRS-packaging in their general plastic waste bin at home because the label on the packaging says “plastic”.

mandatory for transport packaging with the exception of the e-commerce packaging.	should be identified by means denoting participation in the system without the need to indicate material composition.	

(46) Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.		
(47) In order to inform end-users about reusability, availability of systems for re-use and location of collection points as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code <u>may contain information</u>	[...] The QR code may <u>also</u> contain information ~~which facilitates~~ to facilitate <u>the</u> tracking and calculation of trips and rotations. [...]	In addition to this information, this paragraph also includes information on travel and rotation as an obligation. We find this requirement excessive and difficult to implement, given the amount of packaging, the variety in ingredients and their sizes, etc.

<u>which</u> ~~should also~~ facilitates tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale.		For this reason, our proposal is that the 2nd sentence of recital 47 should only provide for the possibility of containing such information and not an obligation.
(48) There should be no multiplication of labels on packaging. In order to avoid this, where other Union legislation requires information on the packaged product to be available digitally through a data carrier, the information required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. <u>Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable</u>		

<u>promoting circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging circularity.</u>		
(49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It should be possible to identify packaging included in the extended producer responsibility scheme by means of an accreditation symbol throughout the territory of that system. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging. To this end, it could be considered that the Green Dot symbol, which is used in some Member States		

to signify that a producer has made a financial contribution to a national packaging recovery system¹, could mislead consumers to believe that packaging bearing such a symbol is always recyclable. ¹ https://www.pro-e.org/the-green-dot-trademark		
<u>(49a) Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>	Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. ~~This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.~~	We fully support that DRS-packaging should indeed bear a DRS label or marking. We are of concern that introducing mandatory harmonized label for these DRS packaging, regardless of the possibility to use also in addition national labels or marking to indicate that they are part of the national DRS, could: (1) confuse consumers that packages can be returned to a DRS established in another country (especially a neighboring country taking into consideration cross-border trade) and (2) would lead to additional labeling costs. It



should also be taken into consideration that foodstuffs are subject to many labelling requirements, which reasonably raises the question both for the possibility of additional label or marking, especially for products with limited dimensions for labeling, but also for the consumers possibility to use the whole set of available information.

For currently implemented DRS, establishing a harmonized EU mandatory label immediately around and especially after the launch of a national DRS risks not only confusing users, requiring additional information clarifications but also delaying/complicating systems operation due to a new requirement to comply with.

A harmonized DRS label may also make the consumer believe that the deposited packaging can be returned to any DRS collection point in the EU which is not the

		case.
(49ab) [Placeholder: Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between the provisions of the Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, provides that displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]		
(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to	[...] The labelling of packaging subject to a ~~harmonised~~ deposit and return system should be designed with consideration given to the variation in the deposit being charged, which may exist between	While we don’t object to the other changes made to this recital, the word “harmonized” should be

the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of <u>standardised, open,</u> digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should <u>keep linguistic elements to a minimum and</u> take into account scientific or other available technical information, including relevant international standards. The labelling of packaging subject to <u>a harmonised deposit and return system</u> should be designed with consideration <u>given</u> to the <u>different countries' currency deposit system variation in the deposit being charged, which may exist between Member States.</u> In view of the new system, Commission Decision 97/129/EC² should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.	Member States. [...]	removed. See comments under recitals 45 and 49a.
<i>Article 11 Labelling of packaging</i>		

² 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).

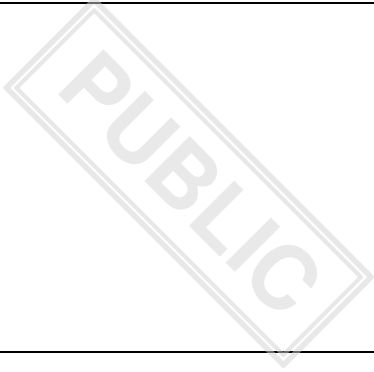
1. From <u>42 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest, [OP: Please insert the date = 42 months after the entry into force of this Regulation]</u>, packaging <u>packaging placed on the market</u> shall be marked with a label containing information on its material composition <u>and including</u> for the packaging referred to in <u>Article 8(1) and (2)</u>, that the material is compostable. This obligation does not apply to transport packaging. However, it applies to e-commerce packaging. Packaging subject to deposit and return systems referred to in Article 44(1) shall, ~~in addition to the labelling referred to in the first subparagraph~~, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.	1. ~~From [OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, Packaging placed on the market <u>[OP: Please insert the date = 42 months after the entry into force of this Regulation]</u> shall be marked with a label containing information on its material composition. This obligation does not apply to transport packaging, <u>reusable packaging and packaging covered by a deposit and return system</u>. However, it applies to e-commerce packaging. ~~Packaging subject to deposit and return systems referred to in Article 44(1) shall, in addition to the labelling referred to in the first subparagraph, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.~~	It is important to indicate that the new labelling requirements only apply to packaging placed on the market after the entry into force of the new requirement. Packaging placed on the market before this date can be marketed as such. Furthermore, in the case of packaging covered by a DRS, the only relevant information for the consumer to be able to properly dispose of the packaging is the DRS label or marking. The overlap of several labels related to the packaging waste management could confuse the consumer and lead to reduced collection rates of packaging covered by a DRS. It would be the case for example if consumers start disposing of their DRS-packaging in their general plastic waste bin at home because the label on the packaging says "plastic". A harmonized DRS label may also make the consumer believe that the deposited packaging can be returned to any DRS collection point in the EU which is not the case.

2. Reusable packaging placed on the market ~~from 48 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest~~ <i>[OP: Please insert the date = 48 months after the date of entry into force of this Regulation]</i>, packaging shall bear a label informing that the packaging is reusable on packaging reusability and a QR code or other type of standardized, open, digital data carrier that provides further information on packaging reusability including the availability of a local, national or EU-wide system for re-use and of information on collection points, and that facilitates the tracking of 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.	~~2. From [OP: Please insert the date = 48 months after the date of entry into force of this Regulation],~~ Reusable packaging placed on the market after [OP: Please insert the date = 48 months after the date of entry into force of this Regulation] shall bear a label on packaging reusability and/or a QR code or other type of digital data carrier that provides further information on packaging reusability including the availability of a system for re-use and of collection points, ~~and that facilitates the tracking of 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.	It is important to indicate that the new labelling requirements only apply to packaging placed on the market after the entry into force of the new requirement. Packaging placed on the market before this date can be marketed as such. It is also logical that only <u>reusable</u> packaging should bear a label related to the packaging reusability, and not all packaging. Also, some flexibility should be provided regarding the means of communication: a label, a QR code or other type of digital carrier, or both. Such flexibility will allow manufacturers to keep innovating in packaging reduction (with label-free packaging for example). Furthermore, when a digital data carrier is used, it should be a unique code for all reusable packaging sold on the territory of a Member State. Tracking the trips and rotations of each packaging unit would require a unique data

		carrier per packaging unit which would be unnecessarily burdensome and costly for manufacturers.
3. Where ~~If~~ a unit of packaging <u>is</u> covered by Article 7 placed on the market from <u>42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest</u> ~~OP: Please insert the date = xx months after the entry into force of this Regulation~~, and is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).		
4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly ~~and~~		

~~indelibly~~ on the packaging, ~~and the information shall be available to end users before the purchase of the product in distance sales when the product is sold online~~ c. 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. The information contained in the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made available on the market. Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.		
5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 ~~and the labelling of waste receptacles referred to in Article 12.~~ <u>The</u>	~~When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall take into consideration any variation which may exist in the deposit charged by the Member States' different currencies and deposits system.~~	We consider it necessary to remove the text related to the harmonized label for packages covered by the DRS. See comments above. In the case of packaging covered by a DRS, the only relevant

<u>Commission shall take into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States² different currencies and deposits system.</u> ~~The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		information for the consumer to be able to properly dispose of the packaging is the DRS label or marking established in the Member State. A harmonized DRS label may also make the consumer believe that the deposited packaging can be returned to any DRS collection point in the EU which is not the case.
6. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included</u>		

<u>and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</u> <u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>		
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.		
8. Packaging included in an extended producer responsibility scheme ~~or covered by a deposit and return system other than that referred to in Article 44(1)~~ may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the		

recyclability or reusability of the packaging.		
<u>8a. Packaging covered by a deposit and return system referred to in Article 44(1) shall be labelled with the harmonised label in accordance with paragraph 1. These packaging may, in addition, by virtue of national law and on the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. The symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</u>	Delete	We consider it necessary to remove the text related to the harmonized label for packages covered by the DRS. See comments above. In the case of packaging covered by a DRS, the only relevant information for the consumer to be able to properly dispose of the packaging is the DRS label or marking established in the Member State.
<i>Article 12 Labelling of waste receptacles for the collection of packaging waste</i>		
1a. By 1 January 2028, <u>OP: Please insert the date = 42 months</u>		

~~<u>after the entry into force of this Regulation</u>~~, <u>42 months after the entry into force of this Regulation, or 24 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest</u>, Member States shall ensure that labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ are affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. <u>A receptacle for packaging waste may bear more than one label.</u> This obligation does not apply to receptacles covered by a deposit and return system.		
Cluster 4 Waste prevention		
<i>Recitals corresponding cluster 4:</i>		
<u>(10a) Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are not designed and intended to be filled at the point of sale. Only when these items are designed and intended to be filled at the point of sale or offered for sale pre-filled, they should be considered packaging, provided that</u>		

<u>they perform a packaging function.</u>		
(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions. 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 13428:2000^[1], should therefore be modified. 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 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. 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. [1] Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction.		
(41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space ~~in~~ grouped and transport packaging, including e-commerce packaging.		
(42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed		

technical specifications of those requirements and specify measurable design criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.		
(60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space ratio ~~n~~ should be set on economic operators who fill the packaging and in terms of reducing the empty space when for the using of such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or end user, the empty space ratio ~~n~~ should not exceed 40 %. In line with the waste hierarchy and to promote packaging innovation with the aim of packaging waste reduction , it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation.		
(61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and		

food hygiene, and facilitate the achievement of the packaging waste prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission ~~to amend the list~~. <u>The Commission will publish guidelines explaining in more detail Annex V, including examples of the packaging and guidance as regards the exemptions.</u>		
(72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council^[1]. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the		

Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements. ^[1] 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).		
(73) In view of the results of the evaluation study on plastic carrier bags^[1], 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. ^[1] 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) <u>To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory,</u>~~The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory~~ <u>may adopt measures which</u> include banning these types of plastic carrier bags, ~~the use of~~ implementation of national reduction targets, maintaining or introducing economic instruments as well as other marketing restrictions, provided that these ~~restrictions~~ measures are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used,		

including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be		

implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~C~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact</u>. Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between		

Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, unless specifically provided otherwise in this Regulation.

Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single



<u>use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<i>Articles</i>		
<i>Definitions from Article 3 regarding cluster 4:</i>		
(21) ‘packaging waste prevention’ means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, <u>including re-use and measures to extend the life of the packaging before it becomes waste.</u>		
<i>Article 9 Packaging minimisation</i>		

~~1. Packaging shall be~~ The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.		
2. The manufacturer or importer shall ensure that p~~ackaging not necessary to~~ complying with any of the performance criteria set out in Annex IV ~~and/or~~ 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 subject to geographical indications of origin protected under Union legislation.		
~~3. The economic operator who fills the packaging shall ensure that e~~ Empty space shall be is reduced to the minimum necessary for ensuring the packaging functionality, including product protection, as follows:		

~~(a) for sales packaging, in relation to the total volume of the packaged product and its characteristics;~~ ~~(b) for grouped and transport packaging, including e-commerce packaging, in relation to the total volume of the grouped or transported products and their sales packaging;~~ ~~For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.~~		
4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements: (a) an explanation of the technical specifications, standards, and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV; (b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria; (c) any test results, studies or other relevant sources such as		

modelling and simulation studies used to assess the minimum necessary volume or weight of the packaging. For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, and in the first place the requirements set out thereof.		
4a. months after entry into force of this Regulation, the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. <u>For certain most common packaging types and formats such standards should and specifying</u> maximum adequate weight and volume limits, and, if appropriate, <u>wall thickness and</u> maximum empty space <u>for certain most common packaging types and formats.</u>	4a. months after entry into force of this Regulation, the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. ~~For certain most common packaging types and formats such standards should and specifying maximum adequate weight and volume limits, and, if appropriate, wall thickness and maximum empty space for certain most common packaging types and formats.~~	It is unclear how the “most common packaging types and formats” would be identified for the development of potential standards and the establishment of maximum weight and volume limits. Brands support the objective of packaging minimisation and are committed to optimising their packaging solutions to contribute to the achievement of the packaging waste reduction targets. However, the definition of maximum weight and volume limits is <i>de facto</i> a standardisation of packaging, which undermines

		brands' identity and freedom to design packaging. It would also be extremely complicated, and risk having negative consequences on the function of the packaging: • Packaging design is an integral aspect of product design and presentation. As acknowledged by the proposal under Article 3(1), the presentation of the good is a key functionality of the packaging. • If products were to adhere to standardised packaging, this would limit the ability of brands to stand out and differentiate themselves based on their packaging design. This would also result in a loss of competitive advantage for companies that have invested in creating appealing and distinctive packaging. • Packaging differentiation is also key to preventing



counterfeiting, which is facilitated by standard or simple shapes. Counterfeiters who wish to replace safe, legitimate products or packaging with illicit ones have an easier task the more standardised the packaging becomes.

- The establishment of **standardised weight and volume of packaging would also hinder packaging and product innovation**, as it would limit the development of new and inventive packaging concepts, as companies would be limited to a predefined set of packaging options. This would hamper also competition by restricting the ability of companies to differentiate themselves through packaging innovation. It is thus necessary to keep the proposal future-proof and avoid placing any potential barrier to packaging

		innovation. • The definition of “wall thickness” limits for packaging would also be a challenging task, due to different elements that should be considered and would make a standardised limit difficult to be implemented across a wide range of sectors and products. <i>Inter alia</i>, the wall thickness depends on the packaged product, the shelf life, the distribution arrangements made by manufacturers, and the filling technology used. • Moreover, the process of establishing the maximum weight and volume of packaging would be an extremely difficult task. Products covered by the PPWR minimisation requirements are extremely varied, with different volumes and shapes, and use different materials. Consequently, the packaging

		used might have different volumes and shapes and use different materials. For this reason, a standardised packaging weight and volume should not be prescribed, but it should be the manufacturer's responsibility to properly justify and demonstrate compliance with the minimisation requirements by providing the information mentioned in Article 9(4). Hence, as manufacturers will already need to demonstrate, also through the technical documentation set under the PPWR, that the packaging has been minimised by weight and volume, the additional requirement of having to comply with specific maximum weight and volume limits would be redundant.

<i>Article 21 Obligation related to excessive packaging</i>		
1. Economic operators who supply products 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 %.	<u>1. Economic operators supplying products to a final distributor or end-user in group packs, transport packs or e-commerce packs shall ensure that the proportion of empty space is a maximum of 40 %. The restriction shall not apply to e-commerce packaging of fragile products of small sizes ordered by the end-user on his own.</u>	This is not applicable in the context of e-commerce of fragile goods of small sizes, such as white and decorative cosmetics, perfumery, baby food and many others. The problem is particularly significant when a small-sized product is ordered on its own. Compliance with this condition by e-tailers will inevitably result in damage to the goods being transported.
2. For the purpose of this calculation: (a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein; (b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-		

commerce packaging. Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene or Styrofoam chips <u>or other filling materials</u>, shall be considered as empty space.		
<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		
3. Economic operators using sales packaging as e-commerce packaging <u>or using reusable packaging</u> shall be exempted from the obligation laid down in paragraph 1. They shall		

nevertheless ensure that such sales packaging complies with the requirements set out in Article 9.		
<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>		
<i>Article 22 Restrictions on use of certain packaging formats</i>		
<u>1. At the latest, three years after entry into force of this Regulation,</u> ~~E~~ economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.		
~~2. By way of derogation from paragraph 1, economic operators shall not place on the market packaging in the~~	2. By way of derogation from paragraph 1, economic operators shall not place on	Switching to alternatives to single-use plastic grouped requires an

~~formats and for the purposes listed in point 3 of Annex V as of 1 January 2030.~~	the market packaging in the formats and for the purposes listed in points 1 and 3 of Annex V as of 1 January 2030.	appropriate transition period to do customer trials, stability tests, ensuring the convenience for retailers, etc. A very short transition period may also lead to shortages in the market for the alternative solutions or materials.
3. Member States may exempt micro-enterprises defined in accordance with the Commission Recommendation 2003/361/EC, ~~economic operators~~ from point 3 of Annex V if they comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361, as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation], ~~and where~~ if it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.		
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend Annex V in order to adapt it to technical and scientific progress with the		

objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the restrictions on the use of specific packaging formats to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.		
4a. <u>48 months</u> after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, explaining in more detail Annex V, including examples of the packaging <u>formats in scope</u> and <u>guidance as regards the any exemptions</u>.		
<i>Article 29 Plastic carrier bags</i>		

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, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.		
2. Measures to be taken by Member States to meet the target set out in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include the banning of lightweight plastic carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory.		
3. In addition to the measures under paragraphs 1 and 2 above, Member States may take measures, such as economic instruments,		

and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		
3a. <u>In case the Member State adopts national reduction targets concerning certain plastic carrier bags, they can introduce measures to achieve such targets, which may, by way of derogation from Article 4, include the banning of such carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory . If the measures take the form of bans, Member States shall monitor the effects of such measures and revoke the measures immediately in case there is a risk the end users can replace the use of banned carrier bags with a product having a more detrimental impact on the environment.</u>		
4. Member States may exclude very lightweight plastic carrier bags ~~which~~ that which are required for hygiene purposes or provided as sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		

<i>Article 38 Prevention of packaging waste</i>		
1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by 2030; 1. 10 % by 2035; 1. 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. For the purpose of paragraph 2, Member States may introduce packaging waste prevention measures going beyond the minimum measures set out in this Article, while complying with the provisions set out in this Regulation.		

Such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC, or other appropriate instruments and measures, including incentives through extended producer responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. ~~Such measures~~ They shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
<u>3a. By way of derogation from paragraph 1, Member States may at the latest by [xx] request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2-3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under the condition that the Member State provide substantiated evidence (i) of a significant increase of packaging waste during the year to be used for base as calculation of the targets under paragraph 1 (ii) that such</u>		

<u>increase is due to changes in the reporting procedures only, and</u>		
<u>(iii) the increase is not due to an increased consumption.</u>		
4. By [OP: Please insert the date = 8 years after the date of entry into force 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 the Commission finds it appropriate, by a legislative proposal.		
~~5. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article.~~		
<u>ANNEX IV</u> <u>METHODOLOGY FOR PACKAGING MINIMISATION</u> <u>ASSESSMENT</u>		

PART I Performance criteria		
1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.		
2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. The packaging manufacturing processes may determine packaging design elements such as the shape of a container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also		

require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.		
3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. Requirements may consist of dimensional co-ordination for optimum space utilisation, compatibility with palletizing and de-palletizing systems, handling and warehousing system, packaging system integrity during transport and handling.		
4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. Requirements may consist of providing product information, instructions for storage, application and use, bar codes, best before date, etc.		

5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. Requirements may consist of: safe handling design, child resistance, tamper evidence, hazard warnings, clear identification of content, safe opening device, pressure release closure, etc.		
6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.		
7. Recycled content, recyclability and re-use: The packaging design shall ensure reusability, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. This means that the packaging weight or volume may have to be increased, beyond what would otherwise be possible under the other performance		

factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material).		
PART II Assessment methodology and determination of the minimum packaging volume and weight		
The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:		
~~(b)~~ (aa) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;		

~~(a)~~ (ab) for each performance criterion as listed in Part I, ~~a list of design requirements~~ a description shall be made which explains the design requirement that which prevents further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging material shall be investigated. It shall not be sufficient to substitute one packaging material with another;		
(c) any test results, market research or studies that have been used for the assessment conducted under points (aa) and (ab).		
ANNEX V RESTRICTIONS ON USE OF PACKAGING FORMATS		

	Packaging format	Restricted use	Illustrative example	1. Plastic packaging used at ~~the point of sale~~ retail level to group goods sold in cans, tins, pots, tubs, and packets ~~designed as convenience packaging to enable or encourage end users to purchase more than one product.~~ This excludes grouped packaging necessary to facilitate handling in distribution, or in transport and storage by consumers, and grouped packaging that contain more than the minimum recycled content referred to in Art. 7.1 (d). and 7.2. (c).	Considerations related to sales and consumption of specific products are out of scope of this Regulation dedicated to packaging and packaging waste. Bans should therefore only be justified by objectives related to packaging and packaging waste reduction. Furthermore, beside the convenience for final distributors, grouped packaging are often used for consumer convenience to help them transport or store their products at home. Finally, some plastic packaging are already sustainable (recyclable and made of very high levels of recycled content), therefore performing better from an environmental point of view than some non-plastic alternatives. Those types of packaging should still be allowed to avoid any negative substitution effect.
1	Single-use plastic grouped packaging	Plastic packaging used at <u>the point of sale</u> ~~retail level~~ to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage <u>consumers</u> ~~end users~~ to purchase more than one product. This excludes grouped packaging necessary to	Collation films, shrink wrap		

		facilitate handling in <u>business-to-business</u> distribution.			
2	Single use ~~plastic packaging, single use composite packaging or other~~ single use packaging for <u>unprocessed</u> fresh fruit and vegetables	Single use packaging for less than 1.5 kg <u>pre-packed</u> fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards or physical shocks, <u>oxidation,</u> ~~with the exemption of packaging needed to~~	Nets, bags, trays, containers		

		<u>avoid</u> <u>commingling</u> <u>of — organic</u> <u>fruits — and</u> <u>vegetables</u> <u>with — non-</u> <u>organic fruits</u> <u>and</u> <u>vegetables</u> <u>according to</u> <u>Regulation</u> <u>(EU)</u> <u>2018/848.</u> <u>Exemptions</u> <u>can also be</u> <u>made in the</u> <u>case there is</u> <u>no — other</u> <u>possibility to</u> <u>comply with</u> <u>the</u> <u>requirements</u> <u>in regulation</u> <u>EU 2018/848,</u> <u>such — as</u> <u>certification</u> <u>or labelling.</u>			

PUBLIC

3	Single use ~~plastic packaging,~~ ~~single use composite packaging or other single use~~ packaging	Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by several economic operators or third party for the purpose of	Trays, disposable plates and cups, bags, ~~foil~~ , boxes		

PUBLIC

		food and drinks consumption. <u>Packets and wrappers made from flexible material for the purpose of containing food that is intended for immediate consumption from the packet or wrapper without any further preparation, may be exempted.</u>			
4	Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and	Single use packaging in the HORECA sector, containing individual portions or	Sachets, tubs, trays, boxes		

	seasoning in HORECA sector	servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation			
5	Single use hotel ~~miniature~~ packaging	For <u>disposable</u> cosmetics, hygiene and toiletry products of less than 50 ml for liquid products or less than 100 g for non-liquid products <u>for</u>	Shampoo bottles, hand and body lotion bottles, sachets around ~~miniature~~ bar soap		

(1). Products need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Prevention of barriers ~~to~~on the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause additional cost to the economic operators.		
(2). In addition, packaging uses high amounts of virgin materials (40 % of plastics and 50 % of paper use in the Union is for packaging) and represents 36 % of municipal solid waste^[1]. High and constantly growing levels of packaging generated as well as low levels of re-use and poor recycling, present significant barriers to achieving a low-carbon circular economy. For these reasons, this Regulation should establish rules over the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and reducing the adverse impacts of packaging and packaging waste on the environment and human health. By laying measures in line with the hierarchy of waste, it should contribute to the transition to a circular economy. ^[1] Eurostat, Packaging waste statistics: https://ec.europa.eu/eurostat/statistics-		

explained/index.php?title=Packaging_waste_statistics		
(3) .European Parliament and Council Directive 94/62/EC^[1] lays down requirements for Member States on packaging, such as essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and recovery and recycling targets. ^[1] European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).		
(4) .In 2014, a Fitness Check relating to Directive 94/62/EC^[1] recommended adaptations of the essential requirements to make them “more concrete and easily enforceable” and to strengthen them, which were seen as a key tool to achieve better environmental performance of packaging. ^[1] European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209		



(5). In line with the Green Deal^[1], the new Circular Economy Action Plan (CEAP)^[2] 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 Union-wide labelling that facilitates the correct separation of packaging waste at source. ^[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN ^[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter		
(6). Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately five-times better than incineration with energy recovery^[1]. Just as the European Strategy for Plastics^[2] states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of		

own resources contribute to reducing pollution from plastic packaging waste^[3]. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource is part of incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy. ^[1] 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. ^[2] 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. ^[3] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM(OJ L 424, 15.12.2020, p. 1).		
(7). The Council underlined in its Conclusions of December 2020^[1], that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions to facilitate 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 materials, especially concerning food packaging materials, and to provide for labelling packaging in an easily understandable way to inform consumers about its recyclability and where its waste should be discarded to facilitate sorting and recycling. ^[1] https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf		
(8). The European Parliament's Resolution of 10 February 2021 on the New Circular Economy Action Plan^[1] reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use. ^[1] https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html		

(12). In line with the waste hierarchy set out in Article 4(2) of Directive 2008/98/EC, and in line with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for 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 packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, 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 higher recycling rates for all packaging and high quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.		
(13). Packaging should be designed, manufactured and commercialised in such a way as to allow for 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.		

(32). It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies. Regarding plastic packaging except where made from polyethylene terephthalate (PET), it will be warranted, sufficiently ahead of the date of application of the related recycled content requirements, to reassess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on this assessment, there might be need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.		
<i>Articles</i>		

<i>Article 1 Subject matter</i>		
1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market, as well as for the extended producer responsibility, collection, and treatment, including ~~and~~ recycling of packaging waste.		
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, distortion and restriction of competition within the Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental protection.		

3. This Regulation contributes to the transition to a circular economy, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.		
<i>Article 2 Scope</i>		
1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.		
2. This Regulation applies without prejudice to Union regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the		

hygiene of the packed products, or to transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.		
<i>Article 4 Free movement</i>		
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~~ making available on the market for the first time within the territory of a Member State of packaging that complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 ~~0~~ of this Regulation.		

~~3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.~~		
4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the placing making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements.		
5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended		

producer responsibility scheme or a deposit and return system ~~other than those referred to in Article 44(1).~~		
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it has been brought into conformity.		

PUBLIC

BG COMMENTS**ANNEX II – PART 3 OF THE TEXT REV01. CLUSTER 6, 8 - 11.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 6 and from 8 to 11 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

BG comments

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		

REV 01_text proposal	Drafting Suggestions	Motivation
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		
Cluster 6 Management of packaging waste		
<i>Recitals corresponding Cluster 6</i>		
(84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and 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.		
(85) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.		
(86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.		

(87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.		
(88) As collection and management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the mMeasures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive 2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention</u>		

<u>programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>		

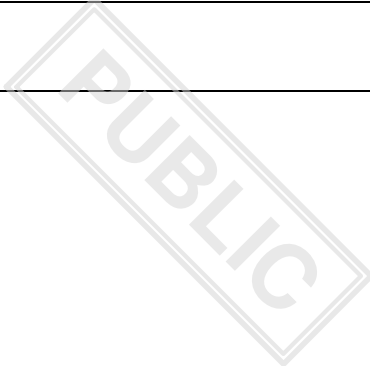
(89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		

(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end		

users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(93) 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 of the European Parliament and of the Council^[4], makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark.~~ To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in	[...] To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities, as defined in article 8a paragraph 4 of Directive (EU) 2018/851. [...]	It is key to refer to Directive 2018/851 which describes the financial obligations of the producers in EPR schemes as part of the agreed EPR minimum requirements. Any measure referring to the EPR costs should therefore be consistent with this Directive which is the right instrument to define roles and responsibilities of actors involved in the EPR.

<u>Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. The Regulation seeks to clearly define one producer per packaging unit, be it for empty packaging or for packaging containing products. As a general rule, the producer should be the economic operator located in the Member State where the packaging is made available for the first time. The exception is when packaging is made available by means of distance contracts directly to the end-user when the producer is established outside the EU. The definition of producer takes into account, which economic operator is best placed to comply with the producer-related obligations, but also seeks to minimize unnecessary administrative burden for small businesses filling service packaging at the point of sale.</u> ^[1] 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).		

(94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State, it is necessary that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.		
(95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.		

(96) In line with the polluter-pays principle expressed in Article 191(2) of the Treaty, it is essential that the producers placing on the Union market packaging and packaged products take responsibility for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. <u>For example, in order to facilitate the separate collection of packaging waste, the producers shall finance the labelling of waste receptacles. This is in line with the producer pay principle and the general minimum requirements for EPR schemes established in Directive</u>		

<u>2008/98/EC.</u>		
(96a) As regards extended producer responsibility (EPR) obligations, this Regulation is a <i>lex specialis</i> in relation to Directive 2008/98/EC, which means that where this Regulation ~~has~~ <u>sets out</u> <u>EPR-related</u> provisions, these should prevail over any conflicting provisions in that Directive. This concerns, for example, requirements on <u>producer</u> registration, ~~fee~~ <u>eco-modulation of EPR fees</u> and reporting. ~~However, all~~ <u>Where this Regulation does not provide for a full harmonisation as regards other</u> measures related to EPR or additional rules on non-harmonised topics in relation to EPR, <u>Member States should be able to provide for additional measures, provided such measures are in accordance with Directive 2008/98/EC and consistent both with the national laws transposing that Directive and with this Regulation, should be regulated in accordance with the provisions of Directive 2008/98/EC and national rules transposing that Directive,</u> without ~~and~~ <u>do not</u> ~~creating~~ barriers to the internal market. ~~Furthermore, this Regulation does not regulate arrangements of the systems of~~		

<u>collection of packaging waste, as this is an example of a matter that is set by national law transposing Directive 2008/98/EC. The same rule applies as regards separate collection of packaging waste and the labelling of waste receptacles. However, this Regulation does not regulate which operator is responsible for the collection of packaging waste and other national contractual arrangements for packaging waste collection.</u>		
<u>(96b) In addition to the harmonized requirement on recyclability for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6), Member States should be allowed to use other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.</u>		
(97) Producers should be able to exercise those obligations		

collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. ~~Moreover, when establishing measures ensuring that arrangements are to be concluded with distributors, public authorities or third parties carrying out waste management, Member States should allow for preliminary, or similar, agreements, and require that binding agreements are concluded only within a reasonable timeframe after the authorisation.~~		

(98) This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council^[1] ~~lays down rules on the traceability of traders, which more specifically contain obligations for~~ are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to be a trader as defined in Regulation (EU) 2022/2065. In order to prevent free-riding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In that context, providers of online platforms, falling within the scope of Section 4 of Chapter III 3 of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, in line with Regulation (EU) 2022/2065, from those producers, information about their compliance with the



extended producer responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in Regulation (EU) 2022/2065. [1] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).		
(99) Member States should provide for the measures for the extended producer responsibility under this Regulation <u>and may also provide further requirements for extended producer responsibility</u>, in accordance with the provisions of Directive 2008/98/EC and of this Regulation.		
(100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most		

appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.	PUBLIC	
(101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of minimum percentage set for recycled content in plastic packaging.		
(102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high		

collection rates of metal beverage containers, it is appropriate that Member States establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.		
(103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging 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. In such situations, a Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Regulation.		

(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products, spirit drinks and milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the European Parliament and of the Council^[1]. Member States may establish deposit and return systems covering also other packaging. 1. ^[1] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).		
(105) All deposit and return systems <u>established after 1 January</u>	All deposit and return systems established after 1 January 2028 should	It is important to differentiate between mandatory criteria all

2028 should comply with the general minimum ~~general~~ requirements laid down in this Regulation. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.	comply with the general minimum requirements laid down in this Regulation. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances. Deposit and return systems for single-use packaging formats set up before the entry into force of this Regulation shall meet at the minimum the requirements related to the governance of the scheme by the industry financing the scheme, the not-for profit nature of the scheme, and the introduction of a priority access mechanism to facilitate closed-loop recycling.	DRS must have (existing and new ones) and those which are nice to have but don't always make sense if the system has not been set up that way from the onset. For existing DRS, making some of those changes could be costly or disruptive to the systems while not bringing a positive impact on the collection rates. However, some improvements could be crucial to their well-functioning.
(106) Member States and all 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. <u>The Commission, in consultation with</u>		We would like to emphasize that while some inter-operability could be sought between some markets, when feasible and when it makes sense, there are several issues to be taken into consideration when considering inter-operability of DRS between neighboring

<u>Member States, should develop guidelines, including best-practices, for system inter-operability in regions with high transboundary business.</u>		countries: - Each DRS is designed to adapt to specific local circumstances. As such, DRS differ regarding the product categories covered, the deposit value, the materials covered, how the retail handling fees are managed, etc. - All DRS are operated with a control mechanism between sales reported by producers and returned and paid out deposits. Apart from the complicated task of “clearing” deposits (and retailer handling fees) between markets (which often differ), it would also be extremely difficult to detect errors and fraud in sales reporting, therefore costing the DRS lost income that must be compensated by higher industry/producer’s fees, which again will lead to higher consumer prices. Some markets operate with security ink in deposit marks - others not. Reverse vending machines cannot, in most cases, identify both. - Keeping track and updating the setup of the reverse vending machines with more than 10.000 new SKU’s per market annually is a huge task and can’t be handled practically by most RVM’s. It will

		lead to consumers getting dissatisfied because they don't get their deposit back - as they would expect. In addition, manual returning points without RVM's do not stand a change of identifying if a bottle or a can is eligible for deposit pay out or not. - Finally, it should not be forgotten that retailers are a key component in a DRS setup and the retail structure varies a lot - even between neighboring countries. Small retailers in city centers often lack the space for RVMs or crushers and are in some markets therefore exempted from the obligation of receiving deposited packaging. In others, they are not. It will be very difficult to compensate retailers in a standard fashion across markets with very different setups. If consumers must go to specific retailers for deposit pay-out, redemption rates will surely drop.
(107) Member States which achieve 90 % collection rate of the targeted packaging types without a deposit and return system two consecutive calendar years preceding the entry into force of this		

obligation, may request not to establish a deposit and return system.		
(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation and managing systems for different packaging formats, Member States are allowed to have a different system operator for the re-use system and another operator for the system for single-use plastic beverage bottles and single use metal beverage containers. However, only one operator per system should be allowed.</u>		

(109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council^[1] setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be retained. 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, it should not be possible to postpone the deadlines for attaining the 2030 recycling targets. ^[1] 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).		
(110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging		

manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more ~~recyclable packaging, coupled with greater granularity of data on the packaging~~ and packaging waste recycling flows, should be reported to the Commission. That will enable the Commission to review the targets with the possibility of maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 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 than the current targets.		
(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling		

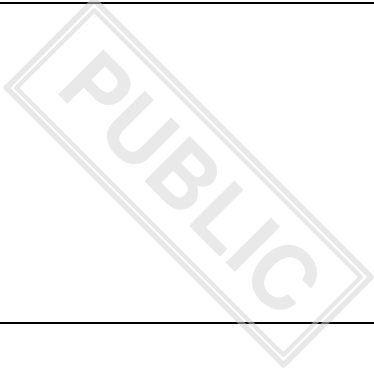
operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation, to be corrected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

or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.		
(112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling		

targets.		
(113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004 ^[1] laying down rules for the calculation, verification and reporting of data on		

waste in accordance with Directive 2008/98/EC. [1] Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).		
(115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council[1] applies. [1] 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).		
(116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by taking into account maximum 5 percentage points of the		

average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.		
(117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. <u>They should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. Only packaging listed in this Regulation and marked as home-compostable is suitable for home composting. No packaging is suitable for biodegradation in nature.</u> The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies.		

The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.		
<u>(117a) For labelling of biobased plastic content, t</u>~~The~~ Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics^{11} (COM 2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, <u>fully or partly, -made from biomass-biobased feedstock</u> . The biomass currently originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by-products, such as used cooking oil, bagasse and tall oil. <u>Plastics can be fully or partially made from biobased feedstock.</u> Biobased plastics can		

be both biodegradable and non-biodegradable. ^[1] https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en		
(118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. Providing of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return systems to be set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.		

(119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type, amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.		
(120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.		
(121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission so that the latter ~~to~~ can establish rules for calculation and verification of data on attainment of the recycling		

targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896^[1] and 2005/270/EC^[2]. ^[2] Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).		
(122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation, the Member States should establish		

packaging databases and ensure that they are well-functioning		
<i>Corresponding definitions in Article 3</i>		
(1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, <u>also referred to as ‘service packaging’.</u>		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of</u>		

<u>that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		
(15) authorised appointed-representative for the extended producer responsibility' 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 VII of this Regulation;		
(50) ‘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;		
(51) ‘deposit and return system’ means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;		

(52) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;		
(53) 'harmonised standard' means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;		
(55) 'producer responsibility organisation' means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;		
(56) 'life-cycle' means the consecutive and interlinked stages that packaging goes through, ~~including the packaging waste management stage~~ , from raw material acquisition or generation from natural resources to ~~final disposal of the packaging waste management~~ .		

(59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;		
(60) ‘ waste’ means waste as defined in Article 3 point (1) of Directive 2008/98/EC, with the exception of reusable packaging conveyed to reconditioning;		
<i>Article 35</i> <i>Competent authority</i>		
1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations set out in this Chapter and in Article <u>6(9)</u> , 26(1) to (10), Article 27, Article 28 and Article 29.		
2. Member States shall lay down the details of the		

organisation and operation of the competent authority or competent authorities, including administrative and procedural rules governing: (a) the registration of producers in accordance with Article 39; (b) the organisation and monitoring of reporting requirements under Article 39(7); (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40; (d) the making available of information in accordance with Article 50.		
3. By [<i>OP: Please insert the date = ~~63~~ months after the date of entry into force of this Regulation</i>], 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.		

<i>Article 36</i> <i>Early warning report</i>		
1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.		
2. The reports referred to in paragraph 1 shall include the following: (a) an estimation of the attainment of the targets by each Member State; (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;		

(c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.		
<i>Article 37 Waste management plans and waste prevention programmes</i>		
1. Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 43, 44 and 38 and 45 of this Regulation.		
1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 38 and		

45 of this Regulation.		
<i>Article 39 Register of producers</i>		
1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter. The register shall provide links to other national registers of producers' websites to facilitate, in all Member States, registration of producers or ~~appointed~~ authorised representatives for the extended producer responsibility.		
2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall, to that end, submit an application for registration in each Member State where they make packaging available on the market for the first time. Where a producer has appointed a producer responsibility organisation as referred to in Article 41(1),		

the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.		
3. The obligations set out in this Article may, on ~~the producer's behalf~~ , behalf of producers by written mandate , be met by an ~~appointed~~ authorised representative for the extended producer responsibility.		
4. Producers shall not make available packaging on the market, if they or, where applicable, their ~~appointed~~ authorised representatives for the extended producer responsibility, are not registered in such Member State.		
5. The application for registration shall include the		

information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents if it is necessary for an efficient use of the register.		
6. Where an ~~appointed~~ authorised representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the contact details of each one of the represented producers separately.		
7. The producer or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the register, <u>at the latest by 1 June 30 April</u> ~~1 March~~ for each full preceding calendar year, the information set out in Part B of Annex IX.		

7a. Producers, <u>or where applicable, the producer's authorised representative, who ~~are exempted from the obligation in paragraph 7 if they~~</u> fall under the definition of micro-enterprise in accordance with the Commission Recommendation 2003/361/EC as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation] <u>shall report to the competent authority responsible for the register, by 30 April, for each full preceding calendar year, the information set out in Part C of Annex IX</u>.		
8. The competent authority responsible for the register: (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website; (b) shall grant registrations and provide a registration number within a maximum period of ~~twelve weeks~~ <u>1-month twelve</u>		

<u>weeks</u> from the moment that all the information laid down in paragraphs 5 and 6 is provided; (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6; (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2; (e) shall receive and monitor the reporting referred to in paragraph 7.		
9. The producer, or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation of the making available on the market within the territory of the Member State of the packaging referred to in the registration. A producer shall be excluded from the register if the producer has ceased to exist as a producer.		

10. Member States shall ensure that the list of registered producers shall be publicly available <u>free of charge</u>. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. <u>The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use.</u> ~~Where the information in the register of producers is not publicly accessible, Member States shall ensure that providers of online platforms allowing consumers to conclude distance contracts with producers are granted access, free of charge, to the information in the register.~~		
11. The Commission shall, <u>by no later than three years after the entry into force of this Regulation</u> ~~<i>{OP: please insert the date X after the date of entry into force of this Regulation}</i>~~, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the		

packaging types and material categories to be covered by the reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
<i>Article 40 Extended Producer Responsibility</i>		
1. Producers of packaging shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging that they make available on the market for the first time within the territory of a Member State.		
<u>1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the collection of packaging waste as referred to in</u>	1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the collection of packaging waste as referred	It is key to refer to Directive 2018/851 which describes the financial obligations of the producers in EPR schemes as part

<u>Article 12.</u>	to in Article 12, and in accordance with Article 8a, paragraph 4 of Directive (EU) 2018/851.	of the agreed EPR minimum requirements. Any measure referring to the EPR costs should therefore be consistent with this Directive which is the right instrument to define roles and responsibilities of actors involved in the EPR.
2. A producer shall appoint, by written mandate, an ~~appointed~~ authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time.		
3. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, ~~P~~ providers of online platforms, falling within the scope of Section 4 of Chapter 3 ~~III~~ III of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers shall obtain the following information from producers offering packaging to		

consumers located in the Union: (a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located and the registration number(s) of the producer in that register; (b) a self-certification by the producer committing to only offer packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this article are complied with in the Member State where the consumer is located.		
<u>3a</u> <u>The provider of the online platform allowing consumers to conclude distance contracts with traders shall verify the information in paragraph 3 point (a) with the publicly available registration list referred to in Article 39(10), and where the provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 3 obtained from the trader concerned is inaccurate, incomplete or not up-to-date, the provider shall request the trader to remedy that situation without</u>		

<u>delay or within the period set by national law. Where the trader fails to correct or complete that information, the provider of the online platform shall swiftly suspend the provision of its service to that trader until the request has been fully complied with.</u>		
<i>Article 41 Producer Responsibility Organisation</i>		
1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.		
2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of		

producers, the Member State shall ensure that the producer responsibility organisations <u>and producers that have not entrusted a producer responsibility organisation</u> , when taken together, cover the whole territory of the Member State as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.		
3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their ~~appointed~~authorised representatives.		
4. In addition to the information referred to in Article 8a(3), point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every		

year and ~~subject to commercial and industrial confidentiality~~ , information on the amount of packaging made available on the market for the first time in the territory of a Member State and on the levels of recovered and recycled materials in relation to the amount of packaging for which they have been performing producer responsibility obligations.	PUBLIC	
<i>Article 42 Authorisation on fulfilment of extended producer responsibility</i>		
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 State shall in its measures laying down administrative and procedural rules referred to in Article 35, establish the requirements and details of the authorisation procedure, which can be different for either individual or collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the information to be provided by producers or producers 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~~may be done by a competent authority or an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility organisations or the producers authorised for individual fulfilment.		
3. The measures to be established by Member States in		

accordance with paragraph 2 shall include measures ensuring that: (a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with; (b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the return or collection in accordance with Article 43(1) and (2) and Article 44, free of charge for end users, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types 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, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf; (d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling; (e) the requirement laid down in paragraph 6 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 in particular if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or in relation to the notification of any changes that concern the terms of the authorisation, or has ceased operations.		
6. A producer, in the case of individual fulfilment of extended		

producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case of non-compliance with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. That guarantee may take the form of a recycling insurance or a blocked bank account or participation by the ~~producer~~producer in the producer responsibility organisation. Member States may specify additional requirements on this guarantee.		
<u>Annex IX</u> <u>INFORMATION FOR REGISTRATION AND REPORTING TO THE</u> <u>REGISTER REFERRED TO IN ARTICLE 39</u>		

A. Information to be submitted upon registration		
1. The information to be submitted by the producer or its authorised representative for EPR shall include: (a) name and brand names (if available) under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, indicating a single contact point; (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number; (c) quantities by weight of types of packaging as set out in Table 1 of Annex II, that the producer makes available in the Member State for the first time; (d) a declaration on how the producer meets its responsibilities under Article 40.		

2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and e-mail address and the national identification code of the producer responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.		
3. In the case of an authorisation in accordance with Article 41(1), the producer responsibility organisation shall, in addition to the information required under point 1 of Part A of this Annex, provide: (a) the names and contact details, including postal codes and		

places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented; (b) the mandate of each represented producer, where applicable; (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the represented producers meets the responsibilities set out in Article 40.		
B. Information to be submitted for reporting		
(a) national identification code of the producer; (b) reporting period; (c) quantities by weight of packaging types as set out in Table 1 in Annex II that the producer makes available in the Member State for the first time; (d) quantities, by weight, per material of packaging waste separately collected within the Member State as set out in Table 1 in Annex II; (e) quantities, by weight, per material and type of		

packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII; (f) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII; (g) arrangements to ensure the producer responsibility regarding the waste from packaging placed on the market.		
<u>C. Information to be submitted for reporting for micro-enterprises</u>		
<u>a. national identification code of the producer;</u> <u>b. reporting period;</u> <u>c. information on packaging types set out in Table 1.</u> <u>d. arrangements to ensure the producer responsibility regarding packaging placed on the market</u>		

Table 1					
	Quantities by weight made available in member state	Quantities by weight collected	Quantities by weight recycled	PUBLIC	
Glass					
Plastic					
Paper/cardboard (including composite)					
Ferrous metal					
Aluminium					
Wood					
Other					
Total					
Deposit return systems and waste collection					

<i>Article 43 Return and collection systems</i>		
1. <u>By 2030</u>, Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year</u>, in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>	By 2030, Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, in a given year, in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed. To facilitate high quality recycling, Member States shall ensure that a system is set up to provide a priority access to the feedstock for recycling for use in applications where the distinct quality of the recycled	While the Commission's proposal was mandating Member States to facilitate high-quality recycling, no concrete measure was foreseen to guarantee that high-quality recycled materials suitable for food-grade applications are used in priority in food-grade applications (and therefore meeting the proposed definition of high-quality recycling). Without such a measure, high-quality materials (complying with strict EU/EFSA food safety requirements) could instead be downcycled and used in non-food applications which do not require the same level of quality (i.e food-grade). Granting unrestricted and unconditional access to food-grade high-quality content to other sectors which do not require food-grade quality also does not incentivize them to further invest in collecting and recycling their own materials. It promotes downcycling instead of closed-loop

	material is preserved or recovered so it allows further recyclability and can be re-used in the same way and for a similar application, with minimal loss of quantity, quality or function.	recycling.
2. Member States may allow derogations from paragraph 1 provided that collecting packaging or fractions of packaging waste together or together with other waste does not affect the potential of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.		
3. The systems referred to in paragraph 1 shall: (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their		

behalf; (b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities, and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas; (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.		

5. ~~By way of derogation from the separate waste collection obligation in paragraph 3, certain types of packaging waste may be collected together where such collection does not affect their potential to undergo recycling operations and results in output from those operations which is of comparable quality to that achieved through separate collection.~~		
<i>Article 44 Deposit and return systems</i>		
1. By 1 January 2029, Member States shall take the necessary measures to ensure ~~that deposit and return systems are set up for the~~ separate collection of at least 90% per year by weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year (a) single use plastic beverage bottles with the minimum capacity of 0,1 litres up to three litres; and (b) single use metal beverage containers with a minimum	By 1 January 2029, Member States shall take the necessary measures to ensure that deposit systems are established for the return of: (a) single-use plastic beverage bottles with a capacity of 0.2 liters to three liters; and (b) single-use metal containers for drinks with a capacity of 0.2 liters to three liters.	Please note that it is technically not possible to accept single-use bottles or metal containers for drinks with a capacity of less than 0.2 liters for recycling. This type of single-use containers are rare, which is why we believe they should be excluded from the regulation

capacity of 0,1 litres up to three litres.		
2. In order to achieve the targets referred to in paragraph 1, Member States shall <u>take the necessary measures to ensure that establish</u> deposit return systems <u>are set up</u> for the relevant packaging formats referred to in paragraph 1. Such obligation ~~The obligation laid down in paragraph 1 does not apply to packaging for:~~ (a) wine, aromatised wine products, and spirit drinks; (b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.		
~~3. Without prejudice to paragraph 1 of this Article, a Member States will~~may be exempted from the obligation under paragraph ~~12~~ under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as		

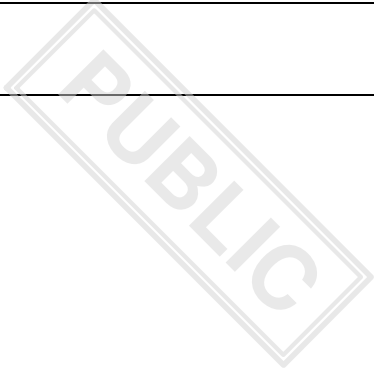
reported to the Commission under Article 50(1) point (c) is above 90 % by weight of such packaging—~~placed~~ made available on the market for the first time on the territory of that Member State in the calendar years 2026 and 2027. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the		

Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point (be) of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the Commission notified the Member State concerned that the exemption no longer applies.		
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, beverage cartons and for reusable		A key advantage of deposit systems is to provide separation of the material flow when necessary to ensure its efficient downstream

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.		use in a circular pattern. In the case of PET beverage bottles, separate collection through a deposit system, for example, is a suitable way to fulfill the requirements of Regulation (EU) 2022/1616 and Regulation (EU) 10/2011 and ensures the production of new bottles (or other packaging, used for food contact) from recycled PET. In the case of other types of packaging that can be recycled with high-quality recycle without separate collection through a deposit system, for example glass, the establishment of a deposit system could result in disproportionately high costs for business operators. In this sense, we propose that the text should be dropped, and that in each member state it should be assessed in view of the factors relevant to it and assessments of benefits and profitability, whether and at what point (when introducing a deposit system or at a later point) the packaging specified in the text should be included in the system.
7. A Member State may, while observing the general rules laid		

down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article <u>and the possibility to include packaging for other products.</u>		
8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are not less convenient for end users than opportunities to return single-use packaging to a deposit and return system.		
9. By 1 January 2028, Member States shall ensure that all deposit and return systems, including those established under paragraph 5 <u>6</u>, meet the minimum criteria listed in Annex X.	By 1 January 2029~~8~~, Member States shall ensure that all deposit and return systems for single-use packaging formats set up after the entry into force of this Regulation, including those established under paragraph 5, meet the minimum criteria listed in Annex X. Deposit and return systems for single-use packaging formats set up before the entry into force of this Regulation shall meet at the minimum the	To remain coherent with the deadline to set up DRS (2029), it is needed to adapt the deadline to comply with the DRS minimum requirements so they are both aligned. Also, to remain coherent with the rest of the article which refers to DRS for single-use packaging, it was important to clarify that those requirements are mandatory for DRS for single-use packaging

	requirements related to the governance of the scheme by the industry financing the scheme, the not-for profit nature of the scheme, and the introduction of a priority access mechanism to facilitate closed-loop recycling.	only. Given the limited experience with reusable packaging collection systems, flexibility on the design of such systems should be provided as long as they demonstrate their performance in achieving high collection rates. Similarly to DRS for single-use packaging, minimum requirements for efficient collection schemes for returnable refillable packaging could be considered at a later stage, once more expertise has been built. Potential synergies between DRS for recycling and DRS for reuse should be explored when relevant (based on the local context) to leverage existing infrastructure where possible and beneficial. Furthermore, it is important to differentiate between mandatory criteria all DRS must have (existing and new ones) and those which are good to have but do not always make sense if the system has not been set up that way from the onset. For existing DRS, making some of those changes could be costly or disruptive to the systems while not bringing a positive impact on the collection rates.

<u>9a. 48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, on deposit and return systems inter-operability, including examples of best-practices, for regions with high transboundary business.</u>		We would like to emphasize that while some inter-operability could be sought between some markets, when feasible and when it makes sense, there are several issues to be taken into consideration when considering inter-operability of DRS between neighboring countries: - Each DRS is designed to adapt to specific local circumstances. As such, DRS differ regarding the product categories covered, the deposit value, the materials covered, how the retail handling fees are managed, etc. - All DRS are operated with a control mechanism between sales reported by producers and returned and paid out deposits. Apart from the complicated task of “clearing” deposits (and retailer handling fees) between markets (which often differ), it would also be extremely difficult to detect errors and fraud in sales reporting, therefore costing the DRS lost income that must be compensated by higher industry/producer’s fees, which again will lead to higher consumer

		prices. Some markets operate with security ink in deposit marks - others not. Reverse vending machines cannot, in most cases, identify both. - Keeping track and updating the setup of the reverse vending machines with more than 10.000 new SKU's per market annually is a huge task and can't be handled practically by most RVM's. It will lead to consumers getting dissatisfied because they don't get their deposit back - as they would expect. In addition, manual returning points without RVM's do not stand a change of identifying if a bottle or a can is eligible for deposit pay out or not. - Finally, it should not be forgotten that retailers are a key component in a DRS setup and the retail structure varies a lot - even between neighbouring countries. Small retailers in city centres often lack the space for RVMs or crushers and are in some markets therefore exempted from the obligation of receiving deposited packaging. In others, they are not. It will be very difficult to compensate retailers in a standard fashion across markets with very

		different setups. If consumers must go to specific retailers for deposit pay-out, redemption rates will surely drop.
<u>ANNEX X</u> <u>MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS</u>		
For the purpose of this Annex, the following definition shall apply: 'system operator' means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit and return system in a Member State.		
Minimum general requirements for deposit and return systems Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:		
(a) a single system operator is established or licenced. When	When deposit and return systems are established for specific packaging	We are of the understanding that effectively functioning DRS are

deposit and return systems are established for specific packaging formats for reuse or single use, Member States may establish ~~more than one single~~ <u>a different</u> system operator <u>per system</u>;	formats for reuse ~~or single use~~, Member States may establish a different system operator per system;	those managed by only one system operator, supporting the initial proposal of the Commission. In case a compromise needs to be reached, reasoned by the specific reusable packaging management, we believe that the scope of the exception from the single operator requirement need to cover only DRS for specific reusable packaging.
(b) the governance of the system allows for equal access and fair conditions of all economic operators wishing to become part of the system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;		
(c) control procedures and reporting systems are set up allowing the system operator to obtain data on the collection of packaging covered by the deposit and return system;		
(d) a minimum deposit level is established, which is sufficient to achieve the required collection rates; <u>(da) a minimum deposit to be charged at the point of sale,</u>	(d) <u>the structure and value of the a minimum deposit(s) level is established by the system operator, which is sufficient in a way to incentivize a bring-back culture and</u> achieve the required collection rates;	It is in the system operator's best interest to set (a) deposit(s) level(s) that is adapted to the local market realities and will ensure the best collection rates possible. Allowing the setting of differential levels enables the system operator to

		consider local specificities and eco-modulate the deposit amount.
(e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;		
(f) system operator is a non-profit and independent legal entity		
(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;		
(h) system operators coordinates the functioning of the deposit and return system;		
(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system; (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which	(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system; (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates; (iv) a definition of the obligations on	The obligations of each key actor participating or having a role in the system should be laid down to avoid any problem with the implementation. Without the proper measures put in place, a DRS could be subject to frauds. It should therefore be mandatory to adopt measures to

it operates;	economic operators covered by the scheme; (v) a definition of the take-back obligation of final distributors; (vi) the measures taken to minimize fraud.	avoid such situations.
(j) a sufficient amount ~~at least 1% of the annual~~ turnover of the system operator (excluding deposits) are used for public awareness campaigns on the information on management of packaging waste;	(j) ~~a sufficient amount~~ part of the annual turnover of the system operator ~~(excluding deposits) are~~ is used for public awareness campaigns on the ~~information on~~ management of packaging waste covered by the DRS;	While it should be mandatory to have awareness raising campaigns on the DRS, the amount to be spent on those campaigns should be prescriptive and the decision should be left to the discretion of the system operator. A well-established DRS will be able to secure its collection objectives with more limited investments in education campaigns than a new one. Furthermore, the turnover should only be used for awareness of the DRS and not of all packaging waste management (outside of the DRS scope).
(k) system operators must provide any information requested by the competent authorities of a Member State, in which the system operates, for the purposes of monitoring compliance with the requirements in this Annex;		

(l) Member States shall ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with redeemed deposits. ~~When implementing this obligation, Member States shall take into account at least the following factors:~~ ~~(i) sales surface area allowing end users to return deposit bearing packaging in their according to the local conditions;~~ ~~(ii) buying and selling habits and traditions;~~ ~~(iii) food safety;~~ ~~(iv) health and safety;~~ ~~(v) public health;~~	(l) Member States ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with redeemed deposits. When implementing this obligation, Member States shall take into account the following factors: (i) sales surface area allowing end users to return deposit bearing packaging in their local conditions; ~~(ii) buying and selling habits and traditions;~~ (iii) food safety; ~~(iv) health and safety;~~ (v) public health; Any exception or partial exemption should be managed by the system operator, in collaboration with the Member State where the system is operated. The evolutions in the market should be taken into account in this exercise and potential exemptions should be revised on a regular basis.	The Commission's proposal included many broad terms without clear definitions which may lead to too many exemptions from the take-back obligations of final distributors. Too many distributors being exempted would mean less collection points and reduced convenience for the consumer. However, some exemptions or partial exemptions may be justified by some specific market realities. An example of a partial exemption would be to only obligate some final distributors (which don't have any physical shop for example) to take back the packaging from the products they distribute.
~~(m) deposit is exempted from sales taxes;~~	(m) the deposit(s) and the pool of unredeemed deposits are ~~is~~ exempted from any and all sales taxes, including	As the term "sales taxes" was not clearly defined, it was necessary to clarify that VAT was covered by this

	VAT;	scope. Also, all deposits (including the unredeemed ones) should be exempted from VAT. The reason is that VAT applies to the price of a “supply or service”. However, the deposits in a DRS are not a supply or service and therefore only the beverage itself should be subject to VAT. The deposit is a separate transaction from the selling of the products - it is an independent transaction to ensure the return of the empty packaging for recycling or reuse. Furthermore, the organization that received the deposit has the obligation to return it upon the return of the empty packaging and it is therefore not a taxable income for the organization. Applying VAT will only incur costs for the tax authorities, the system operator and the market as a whole with no additional benefits for Member States or the DRS. In the case of unredeemed deposits, if VAT is applied, the system operator will lose this value, because it is a non-profit entity and it will not be able to recover the VAT.
(n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;		
(o) all deposit bearing packaging is clearly labelled, so that the end		

users can easily identify the need to return such packaging;		
(p) fees are transparent;		
~~(q) all packaging covered by the deposit and return system.~~		
(r) In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.	(r) In addition to the minimum requirements, Member States may, in collaboration with the system operator , set additional requirements, as appropriate, in order to ~~ensure the fulfilment of the objectives of this Regulation, in particular to~~ increase the purity of the collected packaging waste, ~~reduce litter or promote other circular economy objectives.~~	Any additional minimum requirement should be directly linked to the collected packaging waste and not to other broader objectives which may be out of scope of the DRS.
~~Member States with regions with high transboundary business shall ensure that the functioning of the DRS allows for the interoperability of DRS and that the implementation of the minimum requirements and of any additional requirements does not result in discrimination of business and consumers and market distortions.~~		
Member States are allowed to create exemptions from charging a deposit for a deposit bearing packaging in the context of consumption in hospitality premises provided that a deposit		

bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.		
	(s) the economic operators financing and participating in the system are running the system in a non-for-profit structure.	The industry financing and participating in the system should have a role in its governance to ensure it is run in the most efficient and effective way.
	(t) the DRS is designed to achieve at least 90% return rates for each packaging material covered by the system.	Achieving the collection targets laid down in this Regulation should be a primary objective of each DRS.
	u) the DRS is designed to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors covered by the system.	This addition is necessary to ensure that the system facilitates high-quality recycling.
	(v) Economic operators financing the DRS have a priority access to the food-grade feedstock for recycling corresponding to the amount of packaging material they put on the market and that was collected via the system. Such material shall be used in priority in applications where the distinct quality of the recycled material is preserved or recovered so it allows	While the Commission's proposal was mandating Member States to facilitate high-quality recycling, no concrete measure was foreseen to guarantee that high-quality recycled materials suitable for food-grade applications are used in priority in food-grade applications (and therefore meeting the proposed definition of high-quality recycling). Without such measure, high-

	further recyclability and can be re-used in the same way and for a similar application, with minimal loss of quantity, quality or function. Such access is granted on the basis of the data generated by the system operator in the course of the registration process.	quality materials (complying with strict EU/EFSA food safety requirements) could instead be downcycled and used in non-food applications which do not require the same level of quality (i.e food-grade). Granting unrestricted and unconditional access to food-grade high-quality content to other sectors which do not require food-grade quality also does not incentivize them to further invest in collecting and recycling their own materials. It promotes downcycling instead of closed-loop recycling
	(w) the DRS is set up with cost efficiency as one of the key principles. All participants in the system collaborate for the most optimal and cost-efficient implementation and are fairly compensated for the net costs incurred from dealing with the logistics of the system.	While high collection and high-quality recycling are the two primary objectives of any DRS, it is also important for the system to be cost-efficient. Any saving made thanks to a good management and governance will support the functioning and improvement of the system.
	(x) Revenues, coming for the sales of the collected materials and the unredeemed deposits, stay in the system to cover both setup and operational costs.	This is a key requirement to ensure that the revenues from the DRS are not allocated to other initiatives, to the detriment of the functioning of the DRS itself.

	(y) Costs and revenues are allocated back to specific materials, and cross-subsidisation of materials is avoided.	This is a key requirement to ensure fairness between the different material types covered by the DRS.
	(z) The redemption system, both in store and out of home, is convenient for consumers.	The achievement of the high collection rates relies enormously on the ability and willingness of the consumer to return its packaging to the appropriate collection points. Convenience should therefore be guaranteed.
	(z1) Where reverse vending machines or other deposit-refund system technology is used, minimum technical requirements are defined and supervised by the system operator	This is a key requirement to achieve harmonization, compatibility with different packaging types and consumer ease.
	(z2) Economic operators covered by the scheme should be defined as any legal person who is first to supply an eligible container into the relevant jurisdiction.	The minimum requirements should enshrine the well-established principle of “first supply” in the definition of the obligated parties. This would require that the legal person first placing a container on the market is responsible for compliance with the DRS. This definition is necessary to comply with the freedom of the movement of goods under the TFEU. Many manufacturers may not actually be placing eligible containers into a Member State – or may be filling containers on

		behalf of another entity who then goes on to supply into another Member State. Such an approach aligns with existing best practice schemes and ensures some interoperability within the common market.
<i>Article 46 Recycling targets and promotion of recycling</i>		
1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory: (a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated; (b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 50 % of plastic; (ii) 25 % of wood; (iii) 70 % of ferrous metals; (iv) 50 % of aluminium; (v) 70 % of glass; (vi) 75 % of paper and cardboard;		

(c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated; (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 55 % of plastic; (ii) 30 % of wood; (iii) 80 % of ferrous metals; (iv) 60 % of aluminium; (v) 75 % of glass; (vi) 85 % of paper and cardboard.		
2. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following conditions: (a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets, (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not		

reduced below 30 %, (c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and (d) at the latest 24 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The		

Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
4. By <i>[OP: Please insert the date = 8 years after the date of entry into force of this Regulation]</i> , the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.		
5. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by: (a) improving market conditions for such materials; (b) reviewing existing rules preventing the use of such		

materials.		
6. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum ~~targets~~ <u>requirements</u> set out in this Article.		
<i>Article 47 Rules on the calculation of the attainment of the recycling targets</i>		
1. The calculation whether the targets laid down in Article 46(1) have been attained shall be carried out in accordance with the rules laid down in this Article.		
2. Member States shall calculate the weight of packaging		

waste generated in a given calendar year. The calculation of packaging waste generated in a Member State must be exhaustive.		
3. Member States shall calculate the weight of packaging waste recycled in a given calendar year. The weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.		
4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material		

constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.		
5. ~~Packaging waste exported out of the Union shall be calculated as recycled 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.~~		
6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first sub-paragraph of this ~~Article~~ paragraph , the weight of the packaging waste		

recycled may be measured at the output of any sorting operation provided that: (a) such output waste is subsequently recycled; (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.		
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in paragraphs 2 ~~and~~ to 7 are met. That system may consist of electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC or technical specifications for the quality requirements of sorted waste. It may also consist of average loss rates for sorted waste for various waste types and waste management practices respectively, provided that reliable data cannot be otherwise obtained. Average loss rates shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of		

Directive 2008/98/EC.		
8. The amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.		
9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as		

recycled.		
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.		
11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted as recycled by the Member State in which that packaging waste was collected.		
12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the		

exporter can prove that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are broadly equivalent to the requirements of the relevant Union environmental law.		
<i>Article 48 Rules on the calculation of the attainment of the recycling targets by including re-use</i>		
1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging. The adjusted level shall be calculated by subtracting: (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in		

the first subparagraph in all sales packaging placed on the market, and (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market. No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.		
2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point (a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).		
<u>ANNEX XI</u>		

<u>IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO POINT (D) OF ARTICLE 46(2)</u>		
The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:		
(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;		
(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;		
(c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;		
(d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the		

application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;		
(e) a timetable for the implementation of the measures identified in point 4(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;		
(f) information on funding for waste management in line with the polluter-pays principle;		
(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.		
<i>Article 50 Reporting to the Commission</i>		
1. Member States shall report to the Commission for each calendar year the following data: (a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging, (b) the annual consumption of very lightweight plastic carrier		

bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category <u>as listed in table 5 of Annex XII</u>; (c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1), Member States may provide data on the annual consumption of very thick plastic carrier bags per person		
2. Member States shall report ~~for each packaging material and type as listed in Table 1 of Annex IX~~ for each calendar year data on: (a) the amounts of packaging made available ~~placed~~ on the market for the first time on the territory of that Member State for each packaging ~~type~~ category and material as listed in Table 1 of Annex ~~IX~~; (b) amounts of separately collected packaging waste for each packaging material as listed in Table ~~13~~ in the Annex ~~XII~~; (c) the recycling rates of packaging waste as listed in Table 4 of Annex XII; (d) installed capacities for sorting and recycling for each packaging type and material as listed in Table 1 of Annex II.		

3. The first reporting period shall concern: (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, the 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 1, point c, the calendar year starting from 1 January 2028.		
4. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in accordance with paragraph 7.		
5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the		

format established by the Commission in accordance with paragraph 7.		
6. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article 47(~~58~~) and (~~8~~ <u>12</u>), including detailed information about the average loss rates where applicable.		
7. The Commission shall, by [<i>OP: Please insert the date = ~~24~~<u>12</u> months after the date of entry into force of this Regulation</i>], adopt implementing acts establishing: (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting; (b) the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

8. Member States shall require that all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant, particular problems faced bying small and medium-sized enterprises with regard to the provision of detailed data.		
<i>Article 51 Packaging databases</i>		
1. By [OP: Please insert the date = xx months after the date of entry into force of this Regulation], the Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis, to enable the reporting to the Commission.		

2. The databases referred to in paragraph 1 shall include the following: (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States; ~~(b) information on the toxicity or danger of packaging materials and components used for their manufacture;~~ (c) the data listed in Annex XII.		
<u>ANNEX XII</u> <u>DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE</u> <u>(IN ACCORDANCE WITH TABLES 1 TO 4)</u>		
1. For sales, grouped and transport packaging: (a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1); (b) quantities reused (Table 2).		

2. For sales, grouped and transport packaging waste: (a) Quantities for separately collected packaging waste per material (Table 3) (b) Quantities recovered and disposed of, recycled and quantities recovered for each packaging type (Table 4). (c) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5) (d) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)							
TABLE 1 Quantity of packaging (sales, grouped and transport) generated within the national territory							
	Tonnage produced	- Tonnage exported	+ Tonnage imported	+ Tonnage stored	= Total		
Glass							

Plastic						PUBLIC	
Paper/cardboard (including composite)							
Ferrous metal							
Aluminium							
Wood							
Other							
Total							
TABLE 2 Quantity of <u>total sales</u> packaging (sales, grouped and transport) reused within the national territory							
	Tonnage of packaging placed made available on the market for the first	Reusable packaging		Reusable sales packaging			
		tonnage	Percentage of total reusable packaging	Tonnage	Percentage of total reusable sales packaging		

	time on the territory of that Member State					PUBLIC	
Glass							
Plastic <u>including composite</u>							
Paper/cardboard (including composite packaging)							
Ferrous metal (including tinsplate and composite packaging)							
Aluminium							
Wood							

Other							
total							
TABLE 3 <u>Quantity of generated packaging waste within the national territory and Quantity of separately collected packaging waste per material (sales, grouped and transport) generated within the national territory</u>							
Packaging material	Packaging waste generation (t)	From Packaging waste separately collected (t)					
Glass							
Plastic (rigid and flexible)							
Paper/cardboard (including composite)							
Metals (Ferrous metal and							

		onal terr itor y							
Within the national territory									
Glass, including composite									
Plas tic, PET	Rigi d								
Plas tic, PP									
Packaging	Tot al ton nag e dis pose d of outs ide nati ona l terr itor y	Tot al ton nag e dis pose d of	Tot al tonn age reco vere d and dis pose d of	Quantity recycled		Quantity recovered			
				Ton nag e	Perc enta ge	Ton nag e	Perc enta ge		

PUBLIC

PUBLIC

		e dis pose d of outs ide nati ona l terr itor y	e dis pose d of	reco vere d and dis pose d of	e	ge	e	ge		PUBLIC	
Plas tic, PP											
Plas tic, PE											
Plas tic, mul ti- laye r											
Paper/card board (non- composite)											
Composite Paper/card board											
Ferrous metal (including											

tinplate and composite packaging of which the									PUBLIC	
Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered				
				Tonnage	Percentage	Tonnage	Percentage			
majority is steel)										
Aluminium (including composite packaging of which the majority is aluminium										
Wood										

Textile									PUBLIC		
Ceramic, porcelain or stoneware											
Other											
Total packaging											
Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered					
				Tonnage	Percentage	Tonnage	Percentage				
waste											
Table 5											
Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick											

plastic carrier bags per person, consumed within the national territory				
	Plastic carrier bags consumed within the national territory			
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>	Number per person	Tonnes per person		
lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>				
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>				
Table 6 Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)				

	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)	PUBLIC	
Single use plastic beverage bottles with the capacity of up to 3 litres				
Single use metal beverage containers with a capacity of up to 3 litres				
Cluster 8 Remaining obligations of economic operators				
Recitals corresponding cluster 8				
(39) It should be recalled that all ~~compostable packaging constituting a food contact material~~ is packaging in contact with food, including compostable packaging, has to meet the requirements ~~set out in~~ <u>under the scope of set out in</u> Regulation (EC) No 1935/2004 on materials				

and articles intended to <u>be brought ~~come~~</u> into contact with food <u>or already in contact with food</u>. Where appropriate, the documentation and information required according to the legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.		
(51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.		
(51a) 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 provides common principles		

and reference provisions for the drawing up of legislation harmonising the conditions for the marketing of products. In order to ensure consistency with other sectoral product legislation and to simplify application and enforcement, this regulation should be aligned to that Decision, unless specific circumstances require a different solution <u>in this Regulation</u>. Therefore, ~~the current Regulation should have recourse to that~~ Decision 768/2008/EC should be <u>used</u> as regards certain definitions, general obligations of economic operators, presumption of conformity, ~~provisions regarding~~ formal objections against harmonised standards, ~~and~~ notification procedures, and the provisions concerning procedures dealing with products presenting a risk, <u>when not otherwise specified in this Regulation</u>.		
(52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should		

therefore remain solely the obligation of the manufacturer.		
(53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market ~~comply~~ ies with this Regulation, whether imported as ~~self-standing~~ standalone packaging or ~~in~~ as part of in association with a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those		

requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		
(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		

(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the		

market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		
Definitions article 3 corresponding :		
(6) 'making available on the market' means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;		
(7) 'placing on the market' means the first making available of a packaging on the Union market;		
(8) 'economic operator' means manufacturers, suppliers of packaging, importers, distributors, authorised representative , final distributors, and fulfilment service		

providers;		
(9) ‘manufacturer’ means any natural or legal person who manufactures packaging under its own name or trademark, or has packaging designed or manufactured <u>under its own name or trademark</u> ~~and uses that packaging for the containment, protection, handling, delivery or presentation of products under its own name or trademark, without it having been placed on the market previously;~~	(9) ‘manufacturer’ means any natural or legal person who ~~manufactures~~ places on the market of the European Union packaging under its own name, brand name, or trademark, ~~or has packaging designed or manufactured, and uses that packaging~~ for the containment, protection, handling, delivery or presentation of products <u>under its own name or trademark</u>, without it having been placed on the market previously;	This amendment is aimed at providing legal clarity and to describe more accurately the different situations that can be encountered on the European market.
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name</u>		



<u>or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		
(11) 'supplier' 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 or presentation of products under its own name or trademark;~~		
(12) 'importer' means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;		
(13) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;		
(14) 'authorised representative' means any natural or legal		

person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer's obligations under this Regulation;		
<i>Article 13 Obligations of manufacturers</i>		
1. When placing packaging on the market, manufacturers shall ensure that the packaging complies with the following: (a) it has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; (b) it 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 VII. Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.		
3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10~~5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, ~~and~~ <u>10 years after reusable packaging has been placed on the market.</u>	3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity <u>in electronic form</u> for ~~5~~ 3 years after the ~~single-use~~ packaging has been placed on the market, ~~and 10 years after reusable packaging has been placed on the market.~~	The demand of information from the companies must be rationalized. A high number of documents must be requested by the manufacturer, analysed and kept for quite a number of years to ensure compliance. Many of the documents duplicate information already requested in the context of other European legislation, including the food contact materials legislation. Conformity and obligations posed on manufacturers should be streamlined across existing legislation. We believe that in view of the overall environmental policy and the aspiration in Bulgaria, and in the EU, to move to electronic

		management, it should be provided that the overall documentation accompanying packaging should have a uniform way of creation and storage, namely in fully electronic form under the rules for creating and signing electronic documents, especially given the amount of packaging on the market.
4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may be affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.		

5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.		
6. Manufacturers shall indicate on the packaging or on a QR code or another data carrier their name, registered trade name or registered trade mark as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code or other type of digital data carrier referred to in Article 11(2) or the data carrier referred to in Article 11(4) or in a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.		

7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market 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.		
9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation		

necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or~~ electronic form and, on request, in paper form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.		
<i>Article 14 Information obligations of suppliers of packaging or packaging materials</i>		
10. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or		

languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.		
11. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.		
<i>Article 15 Obligations of authorised representative</i>		
1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 13(1) and the obligation to draw up technical documentation referred to in Annex VII and required under Articles 5 to 10 shall not form part of the authorised representative's mandate.		

2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following: (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~40~~ 5 years after <u>the single-use packaging has been placed on the market, and 10 years after reusable packaging has been placed on the market</u>; (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;	2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following: (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for 5 ~~3~~ years after the single-use packaging has been placed on the market, and 10 years after reusable packaging has been placed on the market; ...	The demand of information from the companies must be rationalized. A high number of documents must be requested by the manufacturer, analysed and kept for quite a number of years to ensure compliance. Many of the documents duplicate information already requested in the context of other European legislation, including the food contact materials legislation. Conformity and obligations posed on manufacturers should be streamlined across existing legislation.

(e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.		
<i>Article 16 Obligations of importers</i>		
1. Importers shall only place on the market packaging which is compliant with the requirements of Articles 5 to 11.		
2. Before placing packaging on the market, importers shall ensure the following: (a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer; (b) the packaging is labelled in accordance with Article 11, (c) the packaging is accompanied by the required documents;		

(d) the manufacturer has complied with the requirements set out in Article 13(5) and (6). Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.		
3. Importers shall indicate on the packaging their name and their registered trade name or registered trade mark as well as the postal address, and, where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided via the data carrier or in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.		
4. Importers shall ensure that information provided in accordance with paragraph 3 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		

5. Importers shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.		
6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.		
7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		

8. Importers shall, for ~~40~~ 5 years after ~~the single-use~~ packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market,</u> keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.	8. Importers shall, for ~~5~~ 3 years after the ~~single-use~~ packaging has been placed on the market, ~~and 10 years after reusable packaging has been placed on the market,~~ keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.	The demand of information from the companies must be rationalized. A high number of documents must be requested by the manufacturer, analysed and kept for quite a number of years to ensure compliance. Many of the documents duplicate information already requested in the context of other European legislation, including the food contact materials legislation. Conformity and obligations posed on manufacturers should be streamlined across existing legislation.
9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided ~~either in paper or in~~ electronic form and, on request, in paper form. The relevant documents		

shall be made available within 10 days of receipt of the request from the national authority.		
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 17 Obligations of distributors</i>		
1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.		
2. Before making packaging available on the market, distributors shall verify the following: (a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the		

register of producers referred to in Article 4039; (b) the packaging is labelled in accordance with Article 11; (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.		
3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer or importer is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or until the manufacturer complies. Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.		
4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the		

packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken. Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~paper or~~ electronic form and, on request, in paper form. Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		

<i>Article 18 Obligations of fulfilment service providers</i>		
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.		
<i>Article 19 Case in which obligations of manufacturers apply to importers and distributors</i>		
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 134, where they place packaging on the market under their own name or trademark or modify packaging already placed on the market in a way that may		

affect compliance with the relevant requirements of this Regulation		
<i>Article 20 Identification of economic operators</i>		
1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following: (a) the identity of any economic operator that has supplied them with packaging; (b) the identity of any economic operator to which they have supplied packaging.		
2. Economic operators shall be able to provide the information referred to in paragraph 1(a) for ~~10~~ 5 years after they have been supplied with the <u>single-use</u> packaging and ~~for~~ 10 years after they have <u>been</u> supplied <u>a reusable</u> packaging. <u>Economic operators shall be able to provide the information referred to in paragraph 1(b) 5 years after they have supplied</u>		

<u>the single-use packaging and for 10 years after they have supplied the reusable packaging.</u>		
<i>Article 49 Information on prevention and management of packaging waste</i>		
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 41(1), producer responsibility organisations shall make available to end-users, in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State: (a) the role of end-users in contributing to waste prevention, including any best practices; (b) re-use arrangements available for packaging;		



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

Obligations under paragraph 1(d) shall be applicable as of *[OP: Please insert the date = 42 months after the entry into force of this Regulation]* or the date of application of

Article 11, whichever is the latest.		
2. The information referred to in paragraph 1 shall be up to date and provided by means of: (a) a website or other means of electronic communication; (b) public information; (c) education programmes and campaigns; (d) signposting in a language, or languages, which can be easily understood by users and consumers.		
3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		
Cluster 9 Conformity		

Recitals corresponding cluster 9		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market <u>complies</u> with this Regulation, whether imported as <u>self-standing standalone</u> packaging or ~~in~~ <u>as part of in association with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		
(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a		

product packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		
<i>Article 30 Test, measurement and calculation methods</i>		
For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, ~~and 21~~ and 29 24 of this Regulation, tests, measurements and calculations		

shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.		
<i>Article 31 Presumption of conformity</i>		
1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been published in the <i>Official Journal of the European Union</i> , shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.		
2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the		

requirements covered by those standards or parts thereof set out in Articles 5 to 11 and 24.		
<i>Article 32 Common ~~technical~~ technical specifications</i>		
1. Packaging which is in conformity with common technical specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 24 to the extent that those requirements are covered by those common technical specifications or parts thereof.		
2. The Commission may, by means of implementing acts, establish common technical specifications for the requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled: (a) there is no harmonised standard covering the relevant requirements the reference of which is published in the		



Official Journal of the European Union or the standard does not satisfy the requirements it aims to cover; **and**

(b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled:

- (i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed;
- (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the standards requested:
 - are not adopted within the deadline set in the request;
 - do not comply with the request; **or**
 - are not fully in line with the requirements they aim to cover.

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

<u>2a. Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.</u>		
3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard ~~are~~ published in the <i>Official Journal of the European Union</i>, the Commission shall assess whether implementing acts referred to in paragraph 2, or parts thereof which cover the same requirements set out in Articles 5 to 11 and Article 24 need to be repealed or amended.		
<u>3a. When a Member State considers that a common</u>		

<u>specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.</u>		
<i>Article 33 Conformity assessment procedure</i>		
Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.		
<i>Article 34 EU declaration of conformity</i>		
1. The EU declaration of conformity shall state that the		

fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.		
2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed on the market or made available on the market.		
3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall, where appropriate , be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of		

conformity.		
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.		
<u>ANNEX VII</u>		
<u>CONFORMITY ASSESSMENT PROCEDURE</u>		
Module A		
Internal production control		

1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and ~~5~~ 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to 10 of this Regulation that apply to them.		
2. Technical documentation The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the packaging. The technical documentation shall contain, wherever applicable, at least the following elements: (a) a general description of the packaging and of its intended use, (b) conceptual design, and manufacturing drawings and materials		

schemes of components, etc. (a) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging, (b) a list of: (i) the harmonised standards, referred to in Article 31, applied in full or in part (ii) the common technical specifications, referred to in Article 32, applied in full or in part (iii) other relevant technical specifications used for measurement or calculation purposes, (iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied, ~~(iv)~~ in the event of harmonised standards and/or common technical specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1. (c) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and,		

(d) test reports.		
3. Manufacturing The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.		
4. Declaration of conformity The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the packaging has been placed on the market. The declaration of conformity shall identify the packaging for which it has been drawn up. A copy of the declaration of conformity shall be made available to the relevant authorities upon request.		

5. Authorised representative The manufacturer's obligations set out in point 4 as regards keeping of the technical documentation may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.		
<u>ANNEX VIII</u> <u>EU DECLARATION OF CONFORMITY NO* ...</u>		
1. No.... (unique identification of the packaging):		
2. Name and address of the manufacturer and, where applicable, its authorised representative.		

3. This declaration of conformity is issued under the sole responsibility of the manufacturer.		
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.		
5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).		
6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.		
7. ~~The~~ Where applicable, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued		

the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).		
8. Additional information Signed for and on behalf of: (place and date of issue): (name, function) (signature) * (identification number of the declaration)		
Cluster 10 Safeguard procedures		
Recitals corresponding cluster 10		
(83) Regulation (EC) No 765/2008 of the European Parliament and of the Council ^[1] 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. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 of the European Parliament and of the Council^[1] setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are		

set pursuant to this Regulation. The market surveillance mechanisms laid down by Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging. [1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(124) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability		

requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.		
(131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS) and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to identify packaging that may correspond to such a prohibition measure. The ~~electronic Electronic System~~ Customs Risk Management Control System (CRMS) set out in Article 36 of Commission Regulation (EU)		

2447/2015, without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.		
(132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well		

as the rules on the processing of personal data, confidentiality and controllership for that interconnection.		
(133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical information, including relevant international standards.		
<i>Article 52 Procedure for dealing with packaging presenting a risk</i>		

<i>at national level</i>		
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 requirements laid down in this Regulation that are relevant to the risk. The relevant economic operators shall cooperate as necessary with the market surveillance authorities. Where, in the course of that evaluation, the market surveillance authorities find that the packaging does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective measures, within a reasonable period prescribed by the market surveillance authorities which is commensurate with the nature and, where relevant the degree of the non-compliance, to bring the packaging in compliance with those requirements.		

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions, which they have required the economic operator to take.		
4. The economic operator shall ensure that all appropriate		

corrective measures is taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		
5. Where the relevant economic operator does not take adequate corrective measures within the period referred to in paragraph 1, second subparagraph, or the non-compliance persists, the market surveillance authorities shall take all appropriate provisional measures to prohibit the making available of the packaging on their national market, to withdraw the packaging from that market or to recall it. The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.		
6. The information to the Commission and the other Member States referred to in paragraph 5 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 and, where applicable, the information referred to in Article 55 4–(1). The market surveillance authorities shall also indicate whether the non-compliance is due to either of the following: (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation; (b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.		
7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the adopted national measure, of their objections.		

8. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Provisional measures may provide for a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.		
9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.		
<i>Article 53 Union safeguard procedure</i>		
1. Where, on completion of the procedure set out in Article 52~~(3)~~ (5) and (6) ~~(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 by means of an implementing act whether the national measure is justified or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.		

3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.		
4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.		
<i>Article 54 Compliant packaging which presents a risk</i>		
1. Where, having carried out an evaluation under Article 52, a Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay		

require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of risk, to ensure that the packaging concerned, when placed on the market, no longer presents that risk, ~~to withdraw the packaging from the market or to recall it.~~	PUBLIC	
2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic		

operator has made available on the market throughout the Union.		
4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the packaging, the nature of the risk involved and the nature and duration of the national measures taken.		
5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, propose appropriate measures. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3). On duly justified imperative grounds of urgency relating to the		

protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 589(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.		
<i>Article 55 Controls on packaging entering the Union market</i>		
1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article 52(5) (4)—of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the non-compliant packaging to which the measures apply and, in case of packaged product, the product itself. 1a. The authorities designated pursuant to Article 25(1) of		

Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.		
2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.		
3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article 52(56) to the environment referred to in paragraph 2 3. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 4 5.		
4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the		

implementation arrangements for paragraph 3 4– including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 4. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).		
<i>Article 56 Formal non-compliance</i>		
1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned: (a) the EU declaration of conformity has not been drawn up (b) the EU declaration of conformity has not been drawn up correctly; (c) the QR code or data carrier referred to in Article 11 do not provide access to the required information in accordance with that Article; (d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors;		

(e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete; (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled; (g) the requirements on restrictions on uses of certain packaging formats and on excessive packaging set out in Articles 21 and 22 are not complied with; (h) in relation to reusable packaging, the requirements on the establishment, operation and participation in a system for re-use referred to in Article 24 are not fulfilled; (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled; (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled; (k) the re-use and refill targets in Article 26 are not achieved.		
2. Where the non-compliance referred to in paragraph 1, points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made available on the market or ensure that it is		

recalled or withdrawn from the market. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.		
Cluster 11 Final Chapters		
Recitals corresponding cluster 11		
(134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ~~the requirements~~ related to the ~~plastic~~ recycled plastic content for plastic beverage bottles as of 1 January 2030 should be deleted from Directive		

(EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted. <u>~~As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.~~</u>		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (~~e.g.~~ <u>i.e.</u> plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact.</u> Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail		

within the scope of its application, ~~unless specifically provided otherwise in this Regulation.~~

Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction

PUBLIC

<u>of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<u>(134bis) As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>	(134bis) As this Regulation does not regulate the recycled content in ~~the~~ plastic ~~part in~~ packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.	Recycled content targets shall be set on all “plastic packaging”, defined as packaging which is wholly or predominantly made of plastic. Indeed, some non-plastic packaging include, for technological purposes, small amounts of plastics. For example, without plastic coatings in cans, food and drinks in metal packaged goods would not retain a multi-year shelf-life. Those small amounts of plastics count for a

		minimal percentage of the total packaging and do not jeopardise the recyclability of the packaging. Furthermore, it is technologically not possible to produce recycled coatings for food contact materials at the moment.
(135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability requirements, the economic operators placing non-compliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.		
(136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union		

value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.		
(137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.		

(138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC should therefore be repealed.		
(139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this ~~Directive~~ Regulation should be deferred.		
(140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application		

of the system of own resources of the Union with regard to the own resource based on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.		
(141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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.		
<i>Article 58 Exercise of the delegation</i>		

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of ~~ten~~ five years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period.		It creates ambiguity and uncertainty about technical requirements and deadlines. In this respect, the power of the Commission to introduce additional restrictions beyond the scope of the Regulation should be removed and the transitional period should not start before the publication of the delegated acts.

3. The delegation of power referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force		It creates ambiguity and uncertainty about technical requirements and deadlines. In this respect, the power of the Commission to introduce additional restrictions beyond the scope of the Regulation should be removed and the transitional period should not start before the publication of the delegated acts.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.		
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to		

the Council.		
6. A delegated act adopted pursuant to Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 59 Committee procedure</i>		
1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee		

shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ~~Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 72, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.~~ <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 55, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.</u>		

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 of that Regulation, shall apply.		
<i>Article 60 Amendments to Regulation (EU) 2019/1020</i>		
Regulation (EU) 2019/1020 is amended as follows: (a) Annex I is amended as follows: (i) point 9 is deleted; (ii) the following points are added:		

'X [<i>OP Please insert the next consecutive number</i>] Directive (EU) 2019/904 of the European ~~Parliament~~ Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1); ~~'X [<i>OP Please insert the next consecutive number</i>] Regulation (EU)...~~ on packaging and packaging waste, amending Regulation (EU) 2019/1020, and repealing Directive 94/62/EC [<i>for the Publications Office to fill in the OJ publication details</i>]. (b) in Annex II, point 8 is deleted.		
<i>Article 61</i> <i>Amendments to Directive (EU) 2019/904</i>		
Directive (EU) 2019/904 is amended as follows: <u>(aa) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’</u> <u>Article 22(4a) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards single use plastic</u>		



packaging listed in Annex V point 3.

[Article 26(2) and (3) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]

[Article 45(4) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]

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

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

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

The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’		
<i>Article 62 Penalties</i>		
1. By [<i>OP: Please insert the date = 24 months after the date of entry into force of this Regulation</i>], 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 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator.~~		
2. Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine		

imposed on the relevant economic operator. Where the legal system of the Member State does not provide for administrative fines, the first paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have equivalent effect to the administrative fines referred to in that paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.		
3. Member States shall, by [<i>OP: please insert the date = 1 year after the date of entry into force of this Regulation</i>], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 63 Evaluation</i>		

By [OP: Please insert the date = 8 years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of packaging. The Commission shall present a report on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.		
<i>Article 64 Repeal and transitional provisions</i>		
Directive 94/62/EC is repealed with effect from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. However, the following transitional provisions shall apply:		

- (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = 42 months after the date of entry into force of this Regulation];
- (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 36 months after the data entry into force of this Regulation];
- (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the **same** calendar year ~~following~~ **in which the period of** 36 months after the date **of** entry into force **ends of this Regulation**], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months after the date entry into force of this Regulation].

(ca) Commission Decision 2001/171/EC and Commission Decision 2009/292/EC shall remain into force and continue to apply until repealed by delegated acts adopted by the Commission adopted pursuant to Article

PUBLIC

<u>5(5a) of this Regulation.</u>				
References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.				
<i>Article 65 Entry into force and application</i>				
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States.				
<u>ANNEX XIII</u> <u>CORRELATION TABLE</u>				
<table><tr><td><i>Directive 94/62/EC</i></td><td><i>This Regulation</i></td></tr></table>	<i>Directive 94/62/EC</i>	<i>This Regulation</i>		
<i>Directive 94/62/EC</i>	<i>This Regulation</i>			

Article 1(1)	Article 1(1-2)		
Article 1(2)	Article 1(3)		
Article 2(1)	Article 2(1)		
Article 2(2)	Article 2(2)		
Article 3(1), first subparagraph	Article 3(1)		
Article 3(1), second subparagraph, point (a)	Article 3(2)		
Article 3(1), second subparagraph, (b)	Article 3(3)		
Article 3(1), second subparagraph, point (c)	Article 3(4)		
Article 3(1), third subparagraph, point (i)	Article 3(1)(a)		
Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)		
Article 3(1), third subparagraph, point (iii)	Article 3(1)(b-c)		
Article 3(1a)	Article 3(43)		
Article 3(1b)	Article 3(44)		
Article 3(1c)	Article 3(45)		
Article 3(1d)	Article 3(46)		
Article 3(1e)	---		
Article 3(2)	Article 3(20)		
Article 3(2a)	Article 10(1)		
Article 3(2b)	Article 3(19)		
Article 3(2c)	Article 3(60) and fourth subparagraph of Article 3		
Article 3(11)	Article 3(8)		
Article 3(12)	---		
Article 4(1), first subparagraph	Article 38(2)		
Article 4(1), second subparagraph	---		

Article 4(1), third subparagraph	Article 38(3)	PUBLIC	
Article 4(1a), first subparagraph	Article 29(1), first subparagraph		
Article 4(1a), second subparagraph	Article 29(2), second sentence		
Article 4(1a), third subparagraph	Article 29(2), first sentence		
Article 4(1a), fourth subparagraph, point (a)	Article 29(1), second subparagraph		
Article 4(1a), fourth subparagraph, point (b)	Article 29(4)		
Article 4(1a), fifth subparagraph	Article 50(1), point (b)		
Article 4(1a), sixth subparagraph	Article 50(7), point (b)		
Article 4(1b)	Article 29(3)		
Article 4(1c)	---		
Article 4(2)	---		
Article 5(1)	Article 45(1)		
Article 5(1)(a)	Article 45(2), point (a)		
Article 5(1)(b)	Article 26(1-10)		
Article 5(1)(c)	Article 45(2), point (b)		
Article 5(1)(d)	Article 45(2) point (c)		
Article 5(2), first subparagraph	Article 48(1), first subparagraph		
Article 5(2), second subparagraph, point (a)	Article 48(1), second subparagraph, point (a)		
Article 5(2), second subparagraph, point (b)	Article 48(1), second subparagraph, point (b)		
Article 5(2), third subparagraph	Article 48(1), third subparagraph		

Article 5(3)	Article 48(2)	PUBLIC	
Article 5(4)	Article 50(7), point (a)		
Article 5(5)	---		
Article 6(1)(a)	---		
Article 6(1)(b)	---		
Article 6(1)(c)	---		
Article 6(1)(d)	---		
Article 6(1)(e)(i)	---		
Article 6(1)(e)(ii)	---		
Article 6(1)(e)(iii)	---		
Article 6(1)(e)(iv)	---		
Article 6(1)(e)(v)	---		
Article 6(1)(f)	Article 46(1)(a)		
Article 6(1)(g)(i)	Article 46(1)(b)(i)		
Article 6(1)(g)(ii)	Article 46(1)(b)(ii)		
Article 6(1)(g)(iii)	Article 46(1)(b)(iii)		
Article 6(1)(g)(iv)	Article 46(1)(b)(iv)		
Article 6(1)(g)(v)	Article 46(1)(b)(v)		
Article 6(1)(g)(vi)	Article 46(1)(b)(vi)		
Article 6(1)(h)	Article 46(1)(c)		
Article 6(1)(i)(i)	Article 46(1)(d)(i)		
Article 6(1)(i)(ii)	Article 46(1)(d)(ii)		
Article 6(1)(i)(iii)	Article 46(1)(d)(iii)		
Article 6(1)(i)(iv)	Article 46(1)(d)(iv)		
Article 6(1)(i)(v)	Article 46(1)(d)(v)		
Article 6(1)(i)(vi)	Article 46(1)(d)(vi)		
Article 6(1a)(a)	Article 46(2)(a)		
Article 6(1a)(b)	Article 46(2)(b)		
Article 6(1a)(c)	Article 46(2)(c)		
Article 6(1a)(d)	Article 46(2)(d)		

Article 6(1b)	Article 46(3)	PUBLIC	
Article 6(1c)	Article 46(4)		
Article 6(4)(a)	Article 46(5)(a)		
Article 6(4)(b)	Article 46(5)(b)		
Article 6(6)	Article 49(2)		
Article 6(7)	---		
Article 6(10)	Article 46(6)		
Article 6(11)	---		
Article 6a(1)(a)	Article 47(2)		
Article 6a(1)(b)	Article 47(3)		
Article 6a(2)	Article 47(6)		
Article 6a(2)(a)	Article 47(6)(a)		
Article 6a(2)(b)	Article 47(6)(b)		
Article 6a(3)	Article 47(7)		
Article 6a(4)	Article 47(8)		
Article 6a(5)	Article 47(9)		
Article 6a(6)	Article 47(10)		
Article 6a(7)	Article 47(11)		
Article 6a(8)	Article 47(12)		
Article 6a(9)	Article 50(7), point (a)		
Article 6b	Article 36		
Article 7(1)	Article 43(1) and (2)		
Article 7(2)	Articles 39-42		
Article 7(3)	Article 43(3)		
Article 7(4)	Article 43(4)		
Article 8(1)	Article 11		
Article 8(2)	Article 11(1)		
Article 8(3)	Article 11(4)		
Article 8a	Article 11(1) and (5)		
Article 9(1)	Articles 5-10		

Article 9(2)(a)	Article 31		
Article 9(2)(b)	---		
Article 9(3)	---		
Article 9(4)	---		
Article 9(5)	---		
Article 10	Article 31(2)		
Article 11(1)	Article 5(2)		
Article 11(2)	---		
Article 11(3)	Article 5(5)		
Article 12(1)	Article 51(1)		
Article 12(2)	Article 51(2)		
Article 12(3a)	Articles 50(1) point (a), 50(3) point (a) and 50(4)		
Article 12(3b)	Article 50(5) and 50(6)		
Article 12(3c)	-		
Article 12(3d)	Article 50(7)		
Article 12(4)	Article 50(8)		
Article 12(6)	Article 50(8)		
Article 13, first subparagraph	Article 49(1)		
Article 13, second subparagraph	---		
Article 14	Article 37		
Article 15	Article 29, Article 38, Article 45		
Article 16(1)	---		
Article 16(2)	---		
Article 18	Article 4		
Article 19(1)	---		
Article 19(2)	---		
Article 20	---		
Article 20a(1)	---		

Article 20a(2)	---	PUBLIC	
Article 20a(3)	---		
Article 21(1)	Article 59(1)		
Article 21(2), first subparagraph	Article 59(3), first subparagraph		
Article 21(2), second subparagraph	Article 59(3), second subparagraph		
Article 21a(1)	Article 58(1)		
Article 21a(2)	Article 58(2)		
Article 21a(3)	Article 58(3)		
Article 21a(4)	Article 58(4)		
Article 21a(5)	Article 58(5)		
Article 21a(6)	Article 58(6)		
Article 22(1)	---		
Article 22(2)	---		
Article 22(3)	---		
Article 22(3a), first subparagraph	---		
Article 22(3a), second subparagraph, point (a)	---		
Article 22(3a), second subparagraph, point (b)	---		
Article 22(3a), second subparagraph, point (c)	---		
Article 22(3a), second subparagraph, point (d)	---		
Article 22(3a), second subparagraph, point (e)	---		
Article 22(3a), second subparagraph, point (f)	---		
Article 22(4)	---		
Article 22(5)	---		

Article 23	---	PUBLIC	
Article 24	---		
Article 25	---		
Annex I	Annex I		
Annex II, point 1	Articles 5, 6, 9 and 10 and Annexes II and IV		
Annex II, point 2	Article 10 and Annex IV		
Annex II, point 3(a)	Article 6 and Annex II		
Annex II, point 3(b)	---		
Annex II, point 3(c)	Articles 8 and 3(41) and Annex III		
Annex II, point 3(d)	Articles 8 and 3(41) and Annex II		
Annex III	Annex XII		
Annex IV	Annex XI		

CZ COMMENTS**ANNEX I – PART 2 OF THE TEXT REV01. CLUSTER 2, 4 AND 5.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 2,4 and 5 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

CZECH REPUBLIC

REV 01_text proposal		Drafting Suggestions	Motivation
2022/0396 (COD)			
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			

REV 01_text proposal		Drafting Suggestions	Motivation
Cluster 2 – Labelling, marking and information requirements			
<i>Recitals corresponding cluster 2:</i>			
(44)	It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles.		
(45)	To facilitate consumers in the sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should		Scrutiny reservation on home composting.

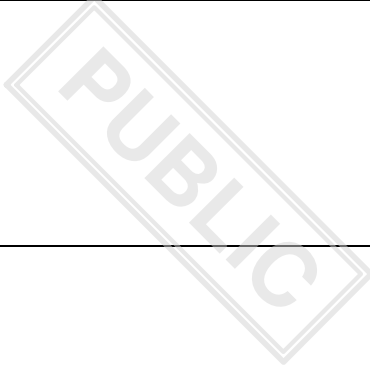
provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. <u>It is only specifically home-compostable packaging which is suitable for home-composting.</u> This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.		

(46) Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.		
(47) In order to inform end-users about reusability, availability of systems for re-use and location of collection points as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code <u>may contain information which should also</u> facilitates tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale.		
(48) There should be no multiplication of labels on packaging. In order to avoid this, where other Union legislation		Scrutiny reservation Many current waste sorting lines are not able to 'read' such digital marking.

requires information on the packaged product to be available digitally through a data carrier, the information required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. <u>Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable promoting circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging circularity.</u>		Adequate time is needed for adaptation so that this requirement can have the desired impact also on waste management level.

(49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It should be possible to identify packaging included in the extended producer responsibility scheme by means of an accreditation symbol throughout the territory of that system. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging. To this end, it could be considered that the Green Dot symbol, which is used in some Member States to signify that a producer has made a financial contribution to a national packaging recovery system¹, could mislead consumers to believe that packaging bearing such a symbol is always recyclable. ¹ https://www.pro-e.org/the-green-dot-trademark		

<u>(49a) Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>		
(49ab) [Placeholder: Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between the provisions of the Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, provides that		Scrutiny reservation

displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]		
(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of <u>standardised, open,</u> digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should <u>keep linguistic elements to a minimum and</u> take into account scientific or other available technical information, including relevant international standards. The labelling of packaging subject to a harmonised deposit and return system should be designed with consideration <u>given</u> to the ~~different countries' currency deposit system variation in the deposit being charged, which may exist between Member States.~~ In view of the		Scrutiny reservation It is important to take into consideration all delegated acts within this proposal.

new system, Commission Decision 97/129/EC ² should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.		
<i>Article 11 Labelling of packaging</i>		
1. From <u>42 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest,</u> ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, ~~packaging~~ <u>packaging placed on the market</u> shall be marked with a label containing information on its material composition <u>and including</u> for the packaging referred to in <u>Article 8(1) and (2)</u>, that the material is compostable. This obligation does not apply to transport packaging. However, it applies to e-commerce packaging. Packaging subject to deposit and return systems referred to in Article 44(1) shall, ~~in addition to the labelling referred to in the first~~		Scrutiny reservation Transport packaging, which can be also considered as consumer packaging, is being placed on the market and as such should fall under the marking obligation. The meaning of “material composition” should be clarified. Without further explanation, it can be interpreted in various levels of detail (only “plastic” on one end or complete composition including information about all additives, colourants etc. on the other end of the interpretation spectrum). Also, it is unclear whether all parts of the packaging should be included in the information (including labels, stickers, lids etc.), or the body only. Further points in para 6.

² 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).

~~subparagraph~~ , be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.		We remain concerned about compostable packaging.
2. Reusable packaging placed on the market ~~from~~ <u>48 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest</u> ~~[OP: Please insert the date = 48 months after the date of entry into force of this Regulation]~~, packaging shall bear a label informing that ~~it~~ the packaging is reusable ~~on packaging reusability~~ and a QR code or other type of standardized, open, digital data carrier that provides further information on packaging reusability including the availability of a local, national or EU-wide system for re-use and ~~of information~~ on collection points, and that facilitates the tracking of 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 ~~If~~ a unit of packaging <u>is</u> ~~covered by Article 7~~ placed on the market from <u>42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the</u>	3. Where ~~If~~ a unit of packaging <u>is</u> ~~covered by Article 7~~ placed on the market from <u>42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5,</u>	We remain of the opinion that biobased plastic use should not be promoted in any way until there is a strong proof showing its environmental benefits. A large number of labels can be confusing for consumers. The proportion of recycled content may differ not only from one item

<u>latest</u> ~~{OP: Please insert the date – xx months after the entry into force of this Regulation}~~, <u>and</u> is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).	<u>whichever is the latest</u> ~~{OP: Please insert the date – xx months after the entry into force of this Regulation}~~, <u>and</u> is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article ~~11~~(5).	to another but also from one batch to another. It is technically, administratively and financially very challenging to label the recycling rate.
4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly ~~and indelibly~~ on the packaging, and the information shall be available to end users before the purchase of the product in distance sales when the product is sold online ~~e. 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.~~ The information contained in		Scrutiny reservation

the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made available on the market. Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.		
5. By <i>[OP: Please insert the date = 18 months after the date of entry into force of this Regulation]</i>, the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 ~~and the labelling of waste receptacles referred to in Article 12.~~ <u>The Commission shall take into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States' different currencies and deposits</u>		

~~system. The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
6. By <i>[OP: Please insert the date = 24 months after the date of entry into force of this Regulation]</i>, the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</u> <u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>		Scrutiny reservation The scope of the implementing act should be very clear. The proposed wording leaves too much room for interpretation.

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.		
8. Packaging included in an extended producer responsibility scheme ~~or covered by a deposit and return system other than that referred to in Article 44(1)~~ may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.		
<u>8a. Packaging covered by a deposit and return system referred to in Article 44(1) shall be labelled with the harmonised label in accordance with paragraph 1. These packaging may, in addition, by virtue of national law and on the condition that this does not lead to distortions on the internal market or trade barriers for</u>		

<u>products from other Member States, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. The symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</u>		
<i>Article 12 Labelling of waste receptacles for the collection of packaging waste</i>		
1a. By 1 January 2028, ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, <u>42 months after the entry into force of this Regulation, or 24 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest</u>, Member States shall ensure that labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ <u>are</u> affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging	1a. By 1 January 2028, ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, <u>42 54 months after the entry into force of this Regulation, or 24 36 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest</u>, Member States shall ensure that labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ <u>are</u> affixed, printed or engraved visibly, ~~and~~ legibly ~~and indelibly~~ on all waste receptacles for collection of packaging waste. <u>A receptacle for packaging waste may bear more than one label.</u> ~~This obligation does not apply to~~	Collection points operate differently in each Member State and this change will have different implications for each Member State. Therefore, we suggest a longer implementation period. It is not possible to ensure indelibility on outdoor containers. Unclear why DRS receptacles should be exempted from the requirement.

waste. <u>A receptacle for packaging waste may bear more than one label.</u> This obligation does not apply to receptacles covered by a deposit and return system.	~~receptacles covered by a deposit and return system.~~	
Cluster 4 Waste prevention		
<i>Recitals corresponding cluster 4:</i>		
(10a) <u>Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are not designed and intended to be filled at the point of sale. Only when these items are designed and intended to be filled at the point of sale or offered for sale pre-filled, they should be considered packaging, provided that they perform a packaging function.</u>		Scrutiny reservation.
(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions. 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 13428:2000^[1], should therefore be modified. 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 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. 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.



[1] Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction.		
(41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space in; grouped and transport packaging, including e-commerce packaging.		
(42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and specify measurable design criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.		

(60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space ratio should be set on economic operators who fill the packaging and in terms of reducing the empty space when for the use of such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or end user, the empty space ratio should not exceed 40 %. In line with the waste hierarchy and to promote packaging innovation with the aim of packaging waste reduction, it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation.		
(61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and food hygiene, and facilitate the achievement of the packaging waste prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the Treaty should be delegated		Scrutiny reservation for text regarding Annex V.

to the Commission to amend the list. <u>The Commission will publish guidelines explaining in more detail Annex V, including examples of the packaging and guidance as regards the exemptions.</u>		
(72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council^[1]. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements.		

^[1] 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).		
(73) In view of the results of the evaluation study on plastic carrier bags^[1], 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. ^[1] 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) <u>To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory,</u>~~The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory~~ <u>may adopt measures which</u> include banning these types of plastic carrier bags, ~~the use of~~ implementation of national reduction targets, maintaining or introducing economic instruments as well as		

other marketing restrictions, provided that these ~~restrictions~~ measures are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline.		

Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and		

complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~C~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (~~e.g.~~ i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact</u>. Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, <u>unless specifically provided otherwise in this Regulation</u>. <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and</u>		Scrutiny reservation.

prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.



<i>Articles</i>		
<i>Definitions from Article 3 regarding cluster 4:</i>		
(21) 'packaging waste prevention' means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, <u>including re-use and measures to extend the life of the packaging before it becomes waste.</u>		
<i>Article 9 Packaging minimisation</i>		
~~1. Packaging shall be~~ The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.		

2. The manufacturer or importer shall ensure that pPackaging ~~not necessary to~~ complying ing with any of the performance criteria set out in Annex IV ~~and/or~~ 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 subject to geographical indications of origin protected under Union legislation.		
<u>3. The economic operator who fills the packaging shall ensure that e</u>Empty space shall be ~~is~~ reduced to the minimum necessary for ensuring the packaging functionality, ~~including product protection,~~ as follows: ~~(a) for sales packaging, in relation to the total volume of the packaged product and its characteristics;~~ ~~(b) for grouped and transport packaging, including e-commerce packaging, in relation to the total volume of the grouped or transported products and their sales packaging;~~ ~~For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge~~		

~~fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.~~		
4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements: (a) an explanation of the technical specifications, standards, and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV; (b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria; (c) any test results, studies or other relevant sources such as modelling and simulation studies used to assess the minimum necessary volume or weight of the packaging. For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, and in the first place the requirements set out thereof.		

4a. months after entry into force of this Regulation, the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. <u>For certain most common packaging types and formats such standards should</u> ~~and specifying~~ maximum adequate weight and volume limits, and, if appropriate, <u>wall thickness and</u> maximum empty space ~~for certain most common packaging types and formats.~~	Delete paragraph.	Wall thickness is only one of many attributes. It is not clear why this attribute should be more relevant than others. Therefore, we suggest to delete it. How will the “certain most common packaging types” be chosen? The proposed mechanism has the same banning potential as DfR requirements. Hence, it should be assessed as thoroughly as the DfR rules. Such strong tool cannot be left open to such wide interpretation as the currently proposed wording offers.
<i>Article 21 Obligation related to excessive packaging</i>		
1. Economic operators who supply products 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 %.		The enforcement of this obligation is very difficult in practice.
2. For the purpose of this calculation:		

(a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein; (b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-commerce packaging. Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene or Styrofoam chips <u>or other filling materials</u>, shall be considered as empty space.		
<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool,</u>		Scrutiny reservation.

<u>polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		
3. Economic operators using sales packaging as e-commerce packaging <u>or using reusable packaging</u> shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements set out in Article 9.		
<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>	<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>	It is unclear why these specific products were chosen. Is there any analysis providing any argument for the four chosen product categories? Is there any definition of “Do-It-Yourself kits” available?
<i>Article 22 Restrictions on use of certain packaging formats</i>		Only packaging meeting all the requirements can be placed on the market, additional bans are therefore redundant. CZ does not agree with additional bans.

1. <u>At the latest, three years after entry into force of this Regulation,</u> Economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.		
2. <u>By way of derogation from paragraph 1, economic operators shall not place on the market packaging in the formats and for the purposes listed in point 3 of Annex V as of 1 January 2030.</u>		
3. Member States may exempt micro-enterprises defined in accordance with the Commission Recommendation 2003/361/EC , economic operators from point 3 of Annex V if they comply with the definition of micro company in accordance with rules set out in the Commission Recommendation 2003/361, as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation], and where if it is not		

technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.		
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend Annex V in order to adapt it to technical and scientific progress with the objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the restrictions on the use of specific packaging formats to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.		
4a. <u>48</u> months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation		

with Member States, explaining in more detail Annex V, including examples of the packaging <u>formats in scope</u> and <u>guidance as regards the any exemptions</u> .		
<i>Article 29 Plastic carrier bags</i>		
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, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.		
2. Measures to be taken by Member States to meet the target set out in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured,		

recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include the banning of lightweight plastic carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory.		
3. In addition to the measures under paragraphs 1 and 2 above, Member States may take measures, such as economic instruments, and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		
3a. <u>In case the Member State adopts national reduction targets concerning certain plastic carrier bags, they can introduce measures to achieve such targets, which may, by way of derogation from Article 4, include the banning of such carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory . If the measures take the form of bans, Member States shall monitor the effects of such measures and revoke the measures immediately in case there is a risk the end users can</u>		Scrutiny reservation

<u>replace the use of banned carrier bags with a product having a more detrimental impact on the environment.</u>		
4. Member States may exclude very lightweight plastic carrier bags ~~which~~ that which are required for hygiene purposes or provided as sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		
<i>Article 38 Prevention of packaging waste</i>		
1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by 2030; 1. 10 % by 2035; 1. 15 % by 2040.	1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by ~~2030~~ 2035; 2. 10 % by ~~2035~~ 2040;	These prevention targets are not fair to Member States with lower production of packaging waste per capita. It will be more challenging for these Member States to achieve prevention targets due to lower base line. Eurostat - https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics#Generation_and_recycling_per_inhabitant. https://ec.europa.eu/eurostat/databrowser/view/env_waspac/default/table?lang=en

	3. 15 % by 2040 2045 .	
2. Member States shall implement measures aiming to prevent the generation of packaging waste and to minimise the environmental impact of packaging.		
3. For the purpose of paragraph 2, Member States may introduce packaging waste prevention measures going beyond the minimum measures set out in this Article, while complying with the provisions set out in this Regulation. Such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC, or other appropriate instruments and measures, including incentives through extended producer responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. ~~Such measures~~ They shall be proportionate and non-discriminatory and		

be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
<u>3a. By way of derogation from paragraph 1, Member States may at the latest by [xx] request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2-3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under the condition that the Member State provide substantiated evidence (i) of a significant increase of packaging waste during the year to be used for base as calculation of the targets under paragraph 1 (ii) that such increase is due to changes in the reporting procedures only, and (iii) the increase is not due to an increased consumption.</u>		Scrutiny reservation
4. By [OP: Please insert the date = 8 years after the date of entry into force 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 the Commission finds it appropriate, by a legislative proposal.		
~~5. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article.~~		
<u>ANNEX IV</u> <u>METHODOLOGY FOR PACKAGING MINIMISATION</u> <u>ASSESSMENT</u>		
PART I Performance criteria		
1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection		

against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.		
2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. The packaging manufacturing processes may determine packaging design elements such as the shape of a container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.		
3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. Requirements may consist of dimensional co-ordination		

for optimum space utilisation, compatibility with palletizing and de-palletizing systems, handling and warehousing system, packaging system integrity during transport and handling.		
4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. Requirements may consist of providing product information, instructions for storage, application and use, bar codes, best before date, etc.		
5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. Requirements may consist of: safe handling design, child resistance, tamper evidence, hazard warnings, clear identification of content, safe opening device, pressure release closure, etc.		

6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.		
7. Recycled content, recyclability and re-use: The packaging design shall ensure reusability, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. This means that the packaging weight or volume may have to be increased, beyond what would otherwise be possible under the other performance factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material).		
PART II Assessment methodology and determination of the minimum packaging volume and weight		

The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:		
(b) (aa) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;		
(a) (ab) for each performance criterion as listed in Part I, ~~a list of design requirements~~ a description shall be made which explains the design requirement that ~~which~~ prevents further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging		

material shall be investigated. It shall not be sufficient to substitute one packaging material with another;					
(c) any test results, market research or studies that have been used for the assessment conducted under points (aa) and (ab).					
ANNEX V RESTRICTIONS ON USE OF PACKAGING FORMATS					CZ does not agree with additional bans. We prefer deletion of Annex V.
	Packaging format	Restricted use	Illustrative example		
1	Single-use plastic grouped packaging	Plastic packaging used at <u>the point of sale</u> retail level to	Collation films, shrink wrap		

		group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage <u>consumers</u> to purchase more than one product. This excludes grouped packaging necessary to facilitate handling in <u>business-to-business</u> distribution.			

PUBLIC

2	Single use ~~plastic packaging~~ ~~single use composite packaging~~ or ~~other~~ single use packaging for unprocessed fresh fruit and vegetables	Single use packaging for less than 1.5 kg pre-packed fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards or physical shocks, oxidation, ~~with the exemption of packaging needed to avoid commingling of organic fruits and vegetables with non-organic fruits and vegetables~~	Nets, bags, trays, containers		How was the 1,5 kg threshold established? Is there any assessment study available to support the value?

		~~according to Regulation (EU) 2018/848.~~ <u>Exemptions can also be made in the case there is no other possibility to comply with the requirements in regulation EU 2018/848, such as certification or labelling.</u>			
3	Single use plastic ~~packaging,~~ <u>single use</u>	Single use packaging for foods and beverages	Trays, disposable plates and		

	<u>composite packaging or other single use packaging</u>	filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by several economic operators or third party for the purpose of food and drinks consumption. <u>Packets and wrappers made from flexible material for the purpose of containing</u>	cups, bags, ~~foil~~, boxes		

		<u>food that is intended for immediate consumption from the packet or wrapper without any further preparation, may be exempted.</u>			
4	Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector	Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided	Sachets, tubs, trays, boxes		

		together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation			
5	Single use hotel ~~miniature~~ packaging	For <u>disposable</u> cosmetics, hygiene and toiletry products of ~~less than 50 ml for liquid products or less than 100 g for non-liquid products~~ <u>for the use in the accommodation sector, according to NACE Rev. 2 – Statistical classification of economic activities^[1]</u> ,	Shampoo bottles, hand and body lotion bottles, sachets around ~~miniature~~ bar soap		

		<u>intended for a single service and discarded before the next guest arrives.</u> ¹⁴ NACE code I55, list can be found in EUROPA - Competition - Cases by NACE code - I			
Cluster 5 General provisions including the legal basis (Articles 1,2,4)					
<i>Recitals</i>					
(1). Products need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Prevention of barriers ~~to~~ on the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause additional cost to the economic operators.					

(2). In addition, packaging uses high amounts of virgin materials (40 % of plastics and 50 % of paper use in the Union is for packaging) and represents 36 % of municipal solid waste^[1]. High and constantly growing levels of packaging generated as well as low levels of re-use and poor recycling, present significant barriers to achieving a low-carbon circular economy. For these reasons, this Regulation should establish rules over the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and reducing the adverse impacts of packaging and packaging waste on the environment and human health. By laying measures in line with the hierarchy of waste, it should contribute to the transition to a circular economy. ^[1] Eurostat, Packaging waste statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics		
(3) .European Parliament and Council Directive 94/62/EC^[1] lays down requirements for Member States on packaging, such as		

essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and recovery and recycling targets. ^[1] European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).		
(4) .In 2014, a Fitness Check relating to Directive 94/62/EC^[1] recommended adaptations of the essential requirements to make them “more concrete and easily enforceable” and to strengthen them, which were seen as a key tool to achieve better environmental performance of packaging. ^[1] European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209		
(5). In line with the Green Deal^[1], the new Circular Economy Action Plan (CEAP)^[2] 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 Union-wide labelling that facilitates the correct separation of packaging waste at source. ^[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN ^[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter		
(6). Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately five-times better than incineration with energy recovery^[1]. Just as the European Strategy for Plastics^[2] states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of own resources contribute to reducing pollution from plastic packaging waste^[3]. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource is part of		

incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy. ^[1] 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. ^[2] 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. ^[3] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM(OJ L 424, 15.12.2020, p. 1).		
(7). The Council underlined in its Conclusions of December 2020^[1], that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions to facilitate 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 materials, especially concerning food packaging materials, and to provide for labelling packaging in an easily understandable way to inform consumers		

about its recyclability and where its waste should be discarded to facilitate sorting and recycling. ^[1] https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf		
(8). The European Parliament's Resolution of 10 February 2021 on the New Circular Economy Action Plan ^[1] reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use. ^[1] https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html		
(12). In line with the waste hierarchy set out in Article 4(2) of Directive 2008/98/EC, and in line with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for 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 packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, 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 higher recycling rates for all packaging and high quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.	PUBLIC	
(13). Packaging should be designed, manufactured and commercialised in such a way as to allow for 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.		
(32). It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies. Regarding plastic packaging except where		

made from polyethylene terephthalate (PET), it will be warranted, sufficiently ahead of the date of application of the related recycled content requirements, to re-assess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on this assessment, there might be need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.	PUBLIC	
<i>Articles</i>		
<i>Article 1 Subject matter</i>		
1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market, as well as		

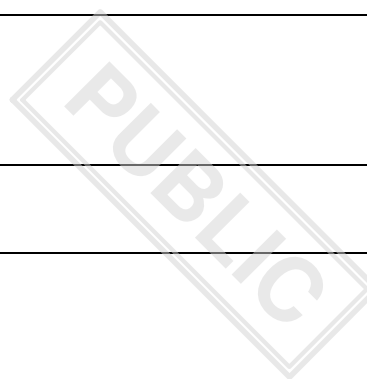
for the extended producer responsibility, collection, and treatment, including ~~and~~ recycling of packaging waste.		
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, distortion and restriction of competition within the Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental protection.		
3. This Regulation contributes to the transition to a circular economy, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.		

<i>Article 2 Scope</i>		
1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.		
2. This Regulation applies without prejudice to Union regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the hygiene of the packed products, or to transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.		
<i>Article 4 Free movement</i>		

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~~ making available on the market for the first time within the territory of a Member State of packaging that complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 ~~0~~ of this Regulation.		
~~3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.~~		
4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this		

Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the ~~placing~~ making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements.		
5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system ~~other than those referred to in Article 44(1).~~		
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with		

this Regulation and that it is not for sale until it has been brought into conformity.		



PUBLIC

CZ COMMENTS**ANNEX II – PART 3 OF THE TEXT REV01. CLUSTER 6, 8 - 11.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 6 and from 8 to 11 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

CZECH REPUBLIC

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 6 Management of packaging waste		
<i>Recitals corresponding Cluster 6</i>		
(84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and 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.		

(85) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.		
(86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.		

(87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.		
(88) As collection and management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the mMeasures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive 2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>	(88) As ~~collection and~~ management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the mMeasures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive	Collection is included in management of packaging waste (or in definition of waste management).

	2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>	

(89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		

(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		We do not agree with setting of prevention targets as a percentage. It does not take into account different starting positions of MS with lower production of packaging waste.
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be		

implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(93) 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 of the European Parliament and of the Council^[4], makes available packaging for the first time within a territory of a Member~~		Scrutiny reservation

~~States on a professional basis under its own name or trademark.~~ **To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. The Regulation seeks to clearly define one producer per packaging unit, be it for empty packaging or for packaging containing products. As a general rule, the producer should be the economic operator located in the Member State where the packaging is made available for the first time. The exception is when packaging is made available by means of distance contracts directly to the end-user when the producer is established outside the EU. The definition of producer takes into account, which economic operator is best placed to comply with the producer-related obligations, but also seeks to minimize unnecessary administrative burden for small businesses filling service packaging at the point of sale.**

^[1] 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).

PUBLIC

(94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State, it is necessary that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.		
(95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.		

(96) In line with the polluter-pays principle expressed in Article 191(2) of the Treaty, it is essential that the producers placing on the Union market packaging and packaged products take responsibility for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. <u>For example, in order to facilitate the separate collection of packaging waste, the producers shall finance the labelling of waste receptacles. This is in line with the producer pay principle</u>		

<u>and the general minimum requirements for EPR schemes established in Directive 2008/98/EC.</u>		
(96a) As regards extended producer responsibility (EPR) obligations, this Regulation is a <i>lex specialis</i> in relation to Directive 2008/98/EC, which means that where this Regulation <u>has sets out EPR-related provisions</u>, these should prevail over any conflicting provisions in that Directive. This concerns, for example, requirements on <u>producer registration, fee eco-modulation of EPR fees and reporting</u>. ~~However, all~~ <u>Where this Regulation does not provide for a full harmonisation as regards other measures related to EPR or additional rules on non-harmonised topics in relation to EPR, Member States should be able to provide for additional measures, provided such measures are in accordance with Directive 2008/98/EC and consistent both with the national laws transposing that Directive and with this Regulation, should be regulated in accordance with the provisions of Directive 2008/98/EC and national rules transposing that Directive, without and do not create barriers to the internal market. Furthermore, this Regulation does not</u>		Scrutiny reservation

<u>regulate arrangements of the systems of collection of packaging waste, as this is an example of a matter that is set by national law transposing Directive 2008/98/EC. The same rule applies as regards separate collection of packaging waste and the labelling of waste receptacles. However, this Regulation does not regulate which operator is responsible for the collection of packaging waste and other national contractual arrangements for packaging waste collection.</u>		
<u>(96b) In addition to the harmonized requirement on recyclability for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6), Member States should be allowed to use other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.</u>		Scrutiny reservation
(97) Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations		

taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. ~~Moreover, when establishing measures ensuring that arrangements are to be concluded with distributors, public authorities or third parties carrying out waste management, Member States should allow for preliminary, or similar, agreements, and require that binding agreements are concluded only within a reasonable timeframe after the authorisation.~~		

(98) This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council^[1] ~~lays down rules on the traceability of traders, which more specifically contain obligations for~~ are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to be a trader as defined in Regulation (EU) 2022/2065. In order to prevent free-riding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In that context, providers of online platforms, falling within the scope of Section 4 of Chapter III 3 of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, in line with Regulation (EU) 2022/2065, from those producers, information about their compliance with the extended producer		Scrutiny reservation

responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in Regulation (EU) 2022/2065.	PUBLIC	
[1] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).		
(99) Member States should provide for the measures for the extended producer responsibility under this Regulation <u>and may also provide further requirements for extended producer responsibility</u> in accordance with the provisions of Directive 2008/98/EC and of this Regulation.		
(100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The		

systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.	PUBLIC	
(101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of minimum percentage set for recycled content in plastic packaging.		
(102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high collection rates of metal beverages containers, it is appropriate that Member States		

establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.		
(103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging 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. In such situations, a Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Regulation.		

(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products, spirit drinks and milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the European Parliament and of the Council^[1]. Member States may establish deposit and return systems covering also other packaging. 1. ^[1] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).		
(105) All deposit and return systems <u>established after 1 January 2028</u> should comply with the <u>general</u> minimum ~~general~~ requirements laid down in this Regulation. Those requirements will		

help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.		
(106) Member States and all 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. <u>The Commission, in consultation with Member States, should develop guidelines, including best-practices, for system inter-operability in regions with high transboundary business.</u>		
(107) Member States which achieve 90 % collection rate of the targeted packaging types without a deposit and return system two		

consecutive calendar years preceding the entry into force of this obligation, may request not to establish a deposit and return system.		
(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation and managing systems for different packaging formats, Member States are allowed to have a different system operator for the re-use system and another operator for the system for single-use plastic beverage bottles and single use metal beverage</u>		Scrutiny reservation for the new text. What is the reasoning behind the requirement „However, only one operator per system should be allowed.“? Should there be only one PRO for collection of other packaging per sector or country?

<u>containers. However, only one operator per system should be allowed.</u>		
(109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council^[1] setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be retained. 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, it should not be possible to postpone the deadlines for attaining the 2030 recycling targets. ^[1] 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).		
(110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some		

Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more ~~recyclable packaging, coupled with greater granularity of data on the packaging~~ and packaging waste recycling flows, should be reported to the Commission. That will enable the Commission to review the targets with the possibility of maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 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 than the current targets.		
(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement		

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

PUBLIC

particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.		
(112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as		

recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004 ^[1] laying		

down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC. [1] Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).		
(115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council^{[1]} applies. [1] 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).		
(116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by		

taking into account maximum 5 percentage points of the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.		
(117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. <u>They should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. Only packaging listed in this Regulation and marked as home-compostable is suitable for home composting. No packaging is suitable for biodegradation in nature.</u> 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		Scrutiny reservation for the new text on compostable and home-compostable packaging.

information technologies. The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.		
<u>(117a) For labelling of biobased plastic content,</u> ~~t~~The Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics¹¹ (COM 2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, <u>fully or partly</u>, ~~made from biomass~~ <u>biobased feedstock</u> . The biomass currently originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by-products, such as used cooking oil, bagasse and tall oil. <u>Plastics can be fully or partially made from biobased</u>	Delete	As stated in our previous comments, we do not agree with inclusion of a reference to biobased plastics in the text.

~~feedstock~~. Biobased plastics can be both biodegradable and non-biodegradable. ^[1] https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en	PUBLIC	
(118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. Providing of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return systems to be set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.		

(119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type, amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.		
(120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.		
(121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission so that the latter ~~to~~ can establish rules for calculation		

and verification of data on attainment of the recycling targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896^[1] and 2005/270/EC^[2]. ^[2] Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).		
(122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out		

in this Regulation, the Member States should establish packaging databases and ensure that they are well-functioning		
<i>Corresponding definitions in Article 3</i>		
(1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, <u>also referred to as ‘service packaging’</u> .		Scrutiny reservation
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first</u>		Scrutiny reservation

<u>time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where</u> <u>(i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		
(15) authorised ~~appointed~~ representative for the extended producer responsibility' 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 VII of this Regulation;		
(50) ‘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;		
(51) ‘deposit and return system’ means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;		

(52) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;		
(53) 'harmonised standard' means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;		
(55) 'producer responsibility organisation' means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;		
(56) 'life-cycle' means the consecutive and interlinked stages that packaging goes through, ~~including the packaging waste management stage~~ , from raw material acquisition or generation	(56) 'life-cycle' means the consecutive and interlinked stages that packaging goes through, <u>including the packaging waste management stage</u> , from raw material acquisition or generation from natural resources to <u>the end of the final</u>	„Packaging waste management“ is a broad process consisting of several steps. The proposed wording could be interpreted that the life-cycle ends at the beginning of the packaging waste management process.

from natural resources to ~~final disposal of the~~ packaging waste management.	~~disposal of the packaging waste~~ management process.	
(59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;		
(60) ‘ waste’ means waste as defined in Article 3 point (1) of Directive 2008/98/EC, with the exception of reusable packaging conveyed to reconditioning;		
<i>Article 35</i> <i>Competent authority</i>		
1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations set out in this Chapter and in Article 6(9) , 26(1) to (10), Article 27, Article 28 and Article 29.		

2. Member States shall lay down the details of the organisation and operation of the competent authority or competent authorities, including administrative and procedural rules governing: (a) the registration of producers in accordance with Article 39; (b) the organisation and monitoring of reporting requirements under Article 39(7); (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40; (d) the making available of information in accordance with Article 50.		
3. By [OP: Please insert the date = ~~63~~ 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.		
<i>Article 36</i> <i>Early warning report</i>		
1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.		
2. The reports referred to in paragraph 1 shall include the following: (a) an estimation of the attainment of the targets by each Member State;		

(b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned; (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.		
<i>Article 37 Waste management plans and waste prevention programmes</i>		
1. Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 43, 44 and 38 and, ~~45~~46 of this Regulation.		
1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of	1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive	

Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 38 and 45 of this Regulation.	2008/98/EC a dedicated chapter on the management ~~prevention~~ of packaging and packaging waste, including measures taken pursuant to Articles 38 and 45 of this Regulation.	
<i>Article 39 Register of producers</i>		
1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter. The register shall provide links to other national registers of producers' websites to facilitate, in all Member States, registration of producers or ~~appointed~~ authorised representatives for the extended producer responsibility.		
2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall, to that end, submit an application for registration in each Member State where they		

make packaging available on the market for the first time. Where a producer has appointed a producer responsibility organisation as referred to in Article 41(1), the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.		
3. The obligations set out in this Article may, on ~~the producer's behalf~~, behalf of producers by written mandate, be met by an ~~appointed~~ authorised representative for the extended producer responsibility.		
4. Producers shall not make available packaging on the market, if they or, where applicable, their ~~appointed~~ authorised representatives for the extended producer responsibility, are not registered in such Member State.		

5. The application for registration shall include the information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents if it is necessary for an efficient use of the register.		
6. Where an ~~appointed~~ authorised representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the contact details of each one of the represented producers separately.		
7. The producer or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the		

register, at the latest by 1 June 30 April 1 March for each full preceding calendar year, the information set out in Part B of Annex IX.		
7a. Producers, <u>or where applicable, the producer's authorised representative, who are exempted from the obligation in paragraph 7 if they</u> fall under the definition of micro-enterprise in accordance with the Commission Recommendation 2003/361/EC as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation] <u>shall report to the competent authority responsible for the register, by 30 April, for each full preceding calendar year, the information set out in Part C of Annex IX</u> .	Delete paragraph.	See explanation below. Unnecessary administrative burden for micro-enterprises with no potential to improve the current packaging statistics.
8. The competent authority responsible for the register: (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing		

system, the details of which shall be made available on the competent authorities' website; (b) shall grant registrations and provide a registration number within a maximum period of ~~twelve weeks~~ <u>1-month twelve weeks</u> from the moment that all the information laid down in paragraphs 5 and 6 is provided; (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6; (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2; (e) shall receive and monitor the reporting referred to in paragraph 7.		
9. The producer, or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation of the making available on the market within the territory of the Member State of the		

packaging referred to in the registration. A producer shall be excluded from the register if the producer has ceased to exist as a producer.		
10. Member States shall ensure that the list of registered producers shall be publicly available <u>free of charge</u>. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. <u>The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use.</u> ~~Where the information in the register of producers is not publicly accessible, Member States shall ensure that providers of online platforms allowing consumers to conclude distance contracts with producers are granted access, free of charge, to the information in the register.~~		
11. The Commission shall, <u>by no later than three years after the entry into force of this Regulation</u> ~~OP: please insert~~		

~~the date X after the date of entry into force of this Regulation~~, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the packaging types and material categories to be covered by the reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
<i>Article 40 Extended Producer Responsibility</i>		
1. Producers of packaging shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging that they make available on the market for the first time within the territory of a Member State.		

<u>1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the collection of packaging waste as referred to in Article 12.</u>	<u>1a. The financial contributions paid by the producer shall cover ~~also~~ the costs of labelling waste receptacles for the collection of packaging waste as referred to in Article 12.</u>	The financial contributions paid by the producer should not cover only the costs of labelling waste receptacles.
2. A producer shall appoint, by written mandate, an ~~appointed~~ authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time.		
3. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, ~~Providers~~ of online platforms, falling within the scope of Section 4 of Chapter 3 III of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers shall obtain the following information from producers offering packaging to consumers located in the Union:		

(a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located and the registration number(s) of the producer in that register; (b) a self-certification by the producer committing to only offer packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this article are complied with in the Member State where the consumer is located.		
<u>3a</u> <u>The provider of the online platform allowing consumers to conclude distance contracts with traders shall verify the information in paragraph 3 point (a) with the publicly available registration list referred to in Article 39(10), and where the provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 3 obtained from the trader concerned is inaccurate, incomplete or not up-to-date, the provider shall request the trader to remedy that situation without delay or within the period set by national law. Where the trader fails to correct or</u>		Scrutiny reservation

<u>complete that information, the provider of the online platform shall swiftly suspend the provision of its service to that trader until the request has been fully complied with.</u>		
<i>Article 41 Producer Responsibility Organisation</i>		
1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.	1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory and only one producer responsibility organization is designated on the territory of the Member State.	
2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers,		

the Member State shall ensure that the producer responsibility organisations <u>and producers that have not entrusted a producer responsibility organisation</u> , when taken together, cover the whole territory of the Member State as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.		
3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their ~~appointed~~authorised representatives.		
4. In addition to the information referred to in Article 8a(3), point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every		

year and subject to commercial and industrial confidentiality, information on the amount of packaging made available on the market for the first time in the territory of a Member State and on the levels of recovered and recycled materials in relation to the amount of packaging for which they have been performing producer responsibility obligations.		
<i>Article 42 Authorisation on fulfilment of extended producer responsibility</i>		
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 State shall in its measures laying down administrative and procedural rules referred to in Article 35,		This paragraph is unclear and raises several interpretation issues. The role

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 producers 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~~may be done by a competent authority or an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility organisations or the producers authorised for individual fulfilment.		and actions of the Member States should be clear.
3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that:		The text “<i>or third parties carrying out waste management on their behalf</i>” is redundant and misleading. If a certain person manages waste on behalf of another person or, as the case may be,

(a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with; (b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the return or collection in accordance with Article 43(1) and (2) and Article 44, free of charge for end users, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types 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, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf; (d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling; (e) the requirement laid down in paragraph 6 is complied with.;		for another person, this should in no way establish their authority to act in relation thereto instead of those whose waste is involved. In fact, it is up to the waste producer to determine who will enter into a contractual relationship with the EPR scheme for “their” waste (and usually it will be the producer itself). The producer responsibility organisation (EPR scheme) cannot enter into contracts with waste collection companies that already provide their services to municipalities as the sole operator of the municipal system. It is proposed to amend Article 42(3)(c) of the Regulation to read as follows: <i>“(c) the necessary arrangements, including preliminary arrangements, to that end are in place with distributors, public authorities ~~or third parties carrying out waste management on their behalf;~~”</i> Alternatively, we propose to amend Article 42(3)(c) of the Regulation to read as follows: <i>“(c) the necessary arrangements, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste</i>

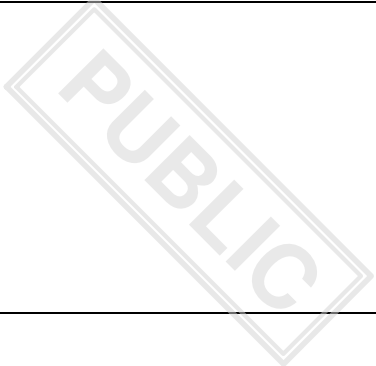
		<i>management on their behalf and being authorised by them to do so;</i>“ Such a measure must consist in an obligation for EPR schemes to have the necessary sorting and recycling capacity secured by contract or agreement on future contract (preliminary agreement) with packaging waste treatment facilities and processors. It is not sufficient if the relevant sorting and recycling capacities are merely “available” without an EPR scheme secured by a contract. It is proposed to amend Article 42(3)(d) of the Regulation to read as follows: <i>“(d) the necessary sorting and recycling capacity is available and that the necessary arrangements, including preliminary arrangements, to that end are in place with packaging waste treaters and processors, to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling.”</i> <u>Comments on Article 42(3) of the Regulation - addition of point (f):</u> If the management of packaging waste should improve, it is necessary to set clear requirements for the take-back,

		sorting and recycling of packaging waste. It is proposed to insert a new point (f) after point (e) of Article 42(3) of the Regulation to read as follows: <i>“(f) the various procedures for ensuring the collection, sorting and recycling of packaging waste and the reporting of packaging placed on the market are designed and set up in such a way that they are easily verifiable and prevent the risk of free riding.”</i>
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 in particular if the producer or producer		

responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or in relation to the notification of any changes that concern the terms of the authorisation, or has ceased operations.		
6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case of non-compliance with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. That guarantee may take the form of a recycling insurance or a blocked bank account or participation by the ~~producer~~producer in the producer		The proposed wording is ambiguous and it is not clear whether the EPR scheme should also provide the guarantee. We therefore propose to remove/clarify the ambiguities in the interpretation of this paragraph and to make a clear distinction between situations where the producer fulfils the obligations under the EPR individually and when under the EPR scheme (collectively).

responsibility organisation. Member States may specify additional requirements on this guarantee.		
<u>Annex IX</u> <u>INFORMATION FOR REGISTRATION AND REPORTING TO THE REGISTER REFERRED TO IN ARTICLE 39</u>		
A. Information to be submitted upon registration		
1. The information to be submitted by the producer or its authorised representative for EPR shall include: (a) name and brand names (if available) under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country,		

telephone, if any, web address and e-mail address, indicating a single contact point; (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number; (c) quantities by weight of types of packaging as set out in Table 1 of Annex II, that the producer makes available in the Member State for the first time; (d) a declaration on how the producer meets its responsibilities under Article 40.		
2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and e-mail address and the national identification code of the producer responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility		

organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.		
3. In the case of an authorisation in accordance with Article 41(1), the producer responsibility organisation shall, in addition to the information required under point 1 of Part A of this Annex, provide: (a) the names and contact details, including postal codes and places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented; (b) the mandate of each represented producer, where applicable; (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the represented producers meets the responsibilities set out in Article 40.		

B. Information to be submitted for reporting		
(a) national identification code of the producer; (b) reporting period; (c) quantities by weight of packaging types as set out in Table 1 in Annex II that the producer makes available in the Member State for the first time; (d) quantities, by weight, per material of packaging waste separately collected within the Member State as set out in Table 1 in Annex II; (e) quantities, by weight, per material and type of packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII; (f) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII;		

(g) arrangements to ensure the producer responsibility regarding the waste from packaging placed on the market.		
<u>C. Information to be submitted for reporting for micro-enterprises</u>		Micro-enterprises consist of less than 10 employees. It is not realistic to expect of such companies to record their packaging recycling rates on their own. Either they need to be exempted from the reporting obligations completely or they need to become part of PRO systems and use their collective results (hence, not provide their own reports). Based on our research, micro-enterprises as well as SMEs have close-to-no knowledge about management of their waste as it is only one of many services they pay for. Furthermore, packaging placed on the market by micro-enterprises can often be found in major packaging collection/recycling streams. Thus, separate reporting could potentially lead to double-counting.
<u>a. national identification code of the producer;</u> <u>b. reporting period;</u> <u>c. information on packaging types set out in Table 1.</u>		

<u>d. arrangements to ensure the producer responsibility regarding packaging placed on the market</u>					
Table 1					
	Quantities by weight made available in member state	Quantities by weight collected	Quantities by weight recycled		
Glass					
Plastic					
Paper/cardboard (including composite)					
Ferrous metal					
Aluminium					
Wood					
Other					
Total					

Deposit return systems and waste collection		
<i>Article 43 Return and collection systems</i>		
1. <u>By 2030</u>, Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year</u>, in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>	1. <u>By 2030</u>, Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year</u>, in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>	Incineration and landfilling must be allowed in various unforeseen circumstances (for example when the recycling facility breaks down and no practicable or environmentally sound alternative is available). Such requirement cannot be agreed on until the final DfR criteria are known. Current development of DfR criteria is heading towards a certain scale of recyclability which implies that not all parts of the packaging is recyclable even if it complies with the DfR criteria. Hence, even DfR-compliant packaging must have other means of recovery. Furthermore, landfilling of packaging and municipal waste is already significantly limited by other means or legislation – namely recycling rate targets for packaging waste and landfilling targets for municipal waste in WFD.

2. Member States may allow derogations from paragraph 1 provided that collecting packaging or fractions of packaging waste together or together with other waste does not affect the potential of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.		
3. The systems referred to in paragraph 1 shall: (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf; (b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities,		

and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas; (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.		
~~5. By way of derogation from the separate waste collection obligation in paragraph 3, certain types of packaging waste may be collected together where such collection does not~~		

~~affect their potential to undergo recycling operations and results in output from those operations which is of comparable quality to that achieved through separate collection.~~		
<i>Article 44 Deposit and return systems</i>		
1. By 1 January 2029, Member States shall take the necessary measures to ensure that deposit and return systems are set up for the <u>separate</u> collection of at least 90% per year by weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year (a) single use plastic beverage bottles with the <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres; and (b) single use metal beverage containers with a <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres.		

2. In order to achieve the targets referred to in paragraph 1, Member States shall <u>take the necessary measures to ensure that establish</u> deposit return systems <u>are set up</u> for the relevant packaging formats referred to in paragraph 1. Such obligation ~~The obligation laid down in paragraph 1~~ does not apply to packaging for: (a) wine, aromatised wine products, and spirit drinks; (b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.		According to Directive 2019/904/EU, milk is considered a „beverage“ and collection target according to this directive also includes plastic bottle for milk. Different approach is applied in this regulation. It is not clear why, more explanation is needed.
~~3. Without prejudice to paragraph 1 of this Article, a Member States will~~ may be exempted from the obligation under paragraph ~~1~~2 under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as reported to the Commission under Article 50(1) point (c) is above 90 % by weight of such packaging ~~placed~~ made available on the market for the first time on the territory of that Member	~~3. Without prejudice to paragraph 1 of this Article, a Member States will~~ may be exempted from the obligation under paragraph ~~1~~2 under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging	There is a need for clarification „above 90%“, paragraph 1 states „at least 90%“. In addition, we would like to postpone the date from 2026/2027 to 2029.

State in the calendar years 2026 and 2027. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.	format as reported to the Commission under Article 50(1) point (c) is ~~above~~ at least 90 % by weight of such packaging—~~placed~~ made available on the market for the first time on the territory of that Member State in the calendar years ~~2026 and 2027~~ 2029. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the	

	Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of ~~the~~ at least 90 % separate collection rate by weight of the packaging referred to in paragraph 1.	
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point (be) of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		

5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the Commission notified the Member State concerned that the exemption no longer applies.		
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, 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.		

7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article <u>and the possibility to include packaging for other products.</u>		
8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are not less convenient for end users than opportunities to return single-use packaging to a deposit and return system.		
9. By 1 January 2028, Member States shall ensure that all deposit and return systems, including those established under paragraph 5 <u>6</u> , meet the minimum criteria listed in Annex X.		

<u>9a.</u> <u>48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, on deposit and return systems inter-operability, including examples of best-practices, for regions with high transboundary business.</u>		
<u>ANNEX X</u> <u>MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS</u>		
For the purpose of this Annex, the following definition shall apply: ‘system operator’ means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit and return system in a Member State.		
Minimum general requirements for deposit and return systems Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:		

(a) a single system operator is established or licenced. When deposit and return systems are established for specific packaging formats for reuse or single use, Member States may establish ~~more than one single~~ a different system operator per system;	(a) a single system operator is established or licenced. When deposit and return systems are established for specific packaging formats for reuse or single use, Member States may establish ~~more than one single~~ a different single system operator per system;	
(b) the governance of the system allows for equal access and fair conditions of all economic operators wishing to become part of the system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;		
(c) control procedures and reporting systems are set up allowing the system operator to obtain data on the collection of packaging covered by the deposit and return system;		
(d) a minimum deposit level is established, which is sufficient to achieve the required collection rates; <u>(da) a minimum deposit to be charged at the point of sale,</u>		

(e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;		
(f) system operator is a non-profit and independent legal entity		
(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;		
(h) system operators coordinates the functioning of the deposit and return system;		
(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system; (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates;		

(j) a sufficient amount ~~at least 1% of the annual~~ turnover of the system operator (excluding deposits) are used for public awareness campaigns on the information on management of packaging waste;		
(k) system operators must provide any information requested by the competent authorities of a Member State, in which the system operates, for the purposes of monitoring compliance with the requirements in this Annex;		
(l) Member States shall ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with redeemed deposits. ~~When implementing this obligation, Member States shall take into account at least the following factors:~~ ~~(i) sales surface area allowing end users to return deposit bearing packaging in their~~ according to the local conditions; ~~(ii) buying and selling habits and traditions;~~ ~~(iii) food safety;~~ ~~(iv) health and safety;~~ ~~(v) public health;~~		

~~(m) deposit is exempted from sales taxes;~~		
(n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;		
(o) all deposit bearing packaging is clearly labelled, so that the end users can easily identify the need to return such packaging;		
(p) fees are transparent;		
~~(q) all packaging covered by the deposit and return system.~~		
(r) In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.		
~~Member States with regions with high transboundary business shall ensure that the functioning of the DRS allows for the interoperability of DRS and that the implementation of the minimum~~		

~~requirements and of any additional requirements does not result in discrimination of business and consumers and market distortions.~~		
Member States are allowed to create exemptions from charging a deposit for a deposit bearing packaging in the context of consumption in hospitality premises provided that a deposit bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.		
<i>Article 46 Recycling targets and promotion of recycling</i>		
1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory: (a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated; (b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 50 % of plastic; (ii) 25 % of wood;		

(iii) 70 % of ferrous metals; (iv) 50 % of aluminium; (v) 70 % of glass; (vi) 75 % of paper and cardboard; (c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated; (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 55 % of plastic; (ii) 30 % of wood; (iii) 80 % of ferrous metals; (iv) 60 % of aluminium; (v) 75 % of glass; (vi) 85 % of paper and cardboard.		
2. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following conditions:		Formulation of potential derogation from the targets is not in line with the current Packaging directive as there is no possibility for a postponement of the 2030 targets (points c and d of Art 2(1)). CZ would like to insist on the possibility for postponement of these targets too.

(a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets, (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %, (c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and (d) at the latest 24 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).		

3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
4. By <i>[OP: Please insert the date = 8 years after the date of entry into force of this Regulation]</i>, the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.	4. By <i>[OP: Please insert the date = 8 years after the date of entry into force of this Regulation]</i>, the Commission shall review the targets laid down in paragraph 1, points (c) and (d), ~~of~~ with a view to amending them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.	It is essential that the possibility of keeping the existing targets is also mentioned, not just the possibility of increasing them. Article 6 paragraph 1c) in current Packaging directive has similar wording - By 31 December 2024, the Commission shall review the targets laid down in points (h) and (i) of paragraph 1 with a view to amending them. 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 rules preventing the use of such materials.		
6. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum ~~targets~~<u>requirements</u> set out in this Article.		
<i>Article 47 Rules on the calculation of the attainment of the recycling targets</i>		

1. The calculation whether the targets laid down in Article 46(1) have been attained shall be carried out in accordance with the rules laid down in this Article.		
2. Member States shall calculate the weight of packaging waste generated in a given calendar year. The calculation of packaging waste generated in a Member State must be exhaustive.		
3. Member States shall calculate the weight of packaging waste recycled in a given calendar year. The weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste		

materials are actually reprocessed into products, materials or substances.		
4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.		
5. ~~Packaging waste exported out of the Union shall be calculated as recycled 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.~~		

6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first sub-paragraph of this ~~Article~~paragraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that: (a) such output waste is subsequently recycled; (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.		
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in paragraphs 2 ~~and~~ to 7 are met. That system may consist of electronic registries set up		

pursuant to Article 35(4) of Directive 2008/98/EC or technical specifications for the quality requirements of sorted waste. It may also consist of average loss rates for sorted waste for various waste types and waste management practices respectively, provided that reliable data cannot be otherwise obtained. Average loss rates shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.		
8. The amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.		

9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as recycled.		
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.		
11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only		

be counted as recycled by the Member State in which that packaging waste was collected.		
12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are broadly equivalent to the requirements of the relevant Union environmental law.		
<i>Article 48 Rules on the calculation of the attainment of the recycling targets by including re-use</i>		
1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking		

into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging. The adjusted level shall be calculated by subtracting: (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in the first subparagraph in all sales packaging placed on the market, and (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market. No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.		

2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point (a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).		
<u>ANNEX XI</u> <u>IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO POINT (D) OF ARTICLE 46(2)</u>		
The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:		
(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;		
(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;		

(c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;		
(d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;		
(e) a timetable for the implementation of the measures identified in point 4(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;		
(f) information on funding for waste management in line with the polluter-pays principle;		

(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.		
<i>Article 50 Reporting to the Commission</i>		
1. Member States shall report to the Commission for each calendar year the following data: (a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging, (b) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category <u>as listed in table 5 of Annex XII</u>; (c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1), Member States may provide data on the annual consumption of very thick plastic carrier bags per person		

2. Member States shall report ~~for each packaging material and type as listed in Table 1 of Annex IX~~ for each calendar year data on: (a) the amounts of packaging made available ~~placed~~ on the market for the first time on the territory of that Member State for each packaging ~~type~~ category and material as listed in Table 1 of Annex ~~IX~~; (b) amounts of separately collected packaging waste for each packaging material as listed in Table ~~13~~ in the Annex ~~XII~~; (c) the recycling rates of packaging waste as listed in Table 4 of Annex XII; (d) installed capacities for sorting and recycling for each packaging type and material as listed in Table 1 of Annex II.		
3. The first reporting period shall concern: (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, the 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 1, point c, the calendar year starting from 1 January 2028.		

4. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in accordance with paragraph 7.		
5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the format established by the Commission in accordance with paragraph 7.		
6. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article 47(~~58~~) and (~~81~~ <u>12</u>), including detailed information about the average loss rates where applicable.		

7. The Commission shall, by [<i>OP: Please insert the date = ~~24~~12 months after the date of entry into force of this Regulation</i>], adopt implementing acts establishing: (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting; (b) the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		The content of implementing acts should be known before the regulation comes into force. We prefer 12 months.
8. Member States shall require that all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant, particular problems faced ~~bying~~ small and medium-sized enterprises with regard to the provision of detailed data.		

<i>Article 51 Packaging databases</i>		
1. By <i>[OP: Please insert the date = xx months after the date of entry into force of this Regulation]</i> , the Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis, to enable the reporting to the Commission.		We suggest 36 months as an adequate timeline for this requirement.
2. The databases referred to in paragraph 1 shall include the following: (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States; ~~(b) information on the toxicity or danger of packaging materials and components used for their manufacture;~~ (c) the data listed in Annex XII.		

<u>ANNEX XII</u> <u>DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE</u> <u>(IN ACCORDANCE WITH TABLES 1 TO 4)</u>		
1. For sales, grouped and transport packaging: (a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1); (b) quantities reused (Table 2).		
2. For sales, grouped and transport packaging waste: (a) Quantities for separately collected packaging waste per material (Table 3) (b) Quantities recovered and disposed of, recycled and quantities recovered for each packaging type (Table 4). (c) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5)		

(d) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)							
TABLE 1 Quantity of packaging (sales, grouped and transport) generated within the national territory							
	Tonnage produced	- Tonnage exported	+ Tonnage imported	+ Tonnage stored	= Total		
Glass							
Plastic							
Paper/cardboard (including composite)							
Ferrous metal							
Aluminium							
Wood							
Other							
Total							

TABLE 2 Quantity of <u>total</u> sales packaging (sales, grouped and transport) reused within the national territory							
	Tonnage of packaging placed made available on the market for the first time on the territory of that Member State	Reusable packaging		Reusable sales packaging			Reporting of composite packaging in the proposed table is confusing. Currently, composite packaging is supposed to be reported for each different material separately – each in their respective category (for example, beverage carton is to be reported in paper, plastic and aluminium categories). Is the proposed inclusion of “including composite” wording supposed to mean a change to the current principle? This comment applies to all the reporting tables.
		tonnage	Percentage of total reusable packaging	Tonnage	Percentage of total reusable sales packaging		
Glass							
Plastic <u>including composite</u>							
Paper/cardboard							

(includin g composi te packagin g)						PUBLIC	
Ferrous metal (includin g tinplate and composi te packagin g)							
Alumini um							
Wood							
Other							
total							

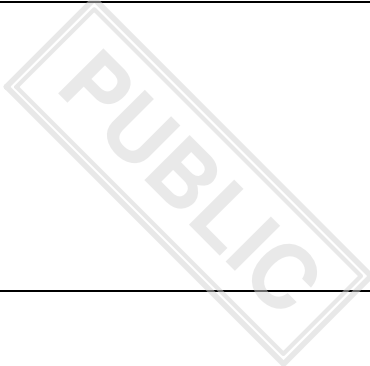
TABLE 3 <u>Quantity of generated packaging waste within the national territory and Quantity of separately collected packaging waste per material (sales, grouped and transport) generated within the national territory</u>				
Packaging material	Packaging waste generation (t)	From Packaging waste separately collected (t)		
Glass				
Plastic (rigid and flexible)				
Paper/cardboard (including composite)				
Metals (Ferrous metal and aluminium, including composite)				
Wood				
Other				
Total				

TABLE 4													
Quantity of packaging waste recovered and disposed of within the national territory <u>and exported</u>													
Packaging		Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered						
					Tonnage	Percentage	Tonnage	Percentage					
Within the national territory													The proposed table is very confusing. It is important to note that the required structure (specific reporting of flexible/rigid plastics and different polymers) can only be achieved by means of waste streams analysis and consecutive modelling. As such, it will always be heavily influenced by statistical errors. The greater the detail, the greater the relative error of the result. The resulting reports will probably be of very limited relevance and cannot be used for the intended purpose.
Glass, including composite													
Plastic, PET	Rigid												
Plastic, PP													

Packaging		Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered			
					Tonnage	Percentage	Tonnage	Percentage		
Plastic, HDPE and PP										
Plastic, PS										
Plastic, HDPE										
Plastic,										



PVC											
Plastic, PC											
Plastic, EPS											
Plastic, XPS											
Plastic, PET	Flexible										
Packaging		Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered				
					Tonnage	Percentage	Tonnage	Percentage			
Plastic, PP											

PUBLIC

Plas tic, PE											
Plas tic, mul ti- laye r											
Paper/card board (non- composite)											
Composite Paper/card board											
Ferrous metal (including tinplate and composite packaging of which the											
Packaging	Tot al ton nag e dis pose d of outs	Tot al ton nag e dis pose d of	Tot al tonn age reco vere d and disp	Quantity recycled		Quantity recovered					
				Ton nag e	Perc enta ge	Ton nag e	Perc enta ge				

PUBLIC

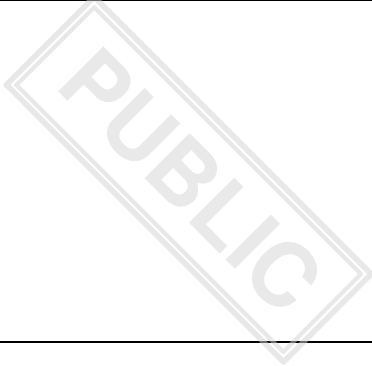
	ide nati ona l terr itor y		ose d of								
majority is steel)											
Aluminiu m (including composite packaging of which the majority is aluminium											
Wood											
Textile											
Ceramic, porcelain or stoneware											
Other											
Total packaging											
Packaging	Tot al ton nage disp disp	Tota l tonn age disp	Tot al tonn age reco vere	Quantity recycled		Quantity recovered					
				Ton nage	Perc enta ge	Ton nage	Perc enta ge				

	ose d of outs ide nati ona l terr itor y	osed of	d and disp ose d of								
waste											
Table 5 Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick plastic carrier bags per person, consumed within the national territory											
		Plastic carrier bags consumed within the national territory									
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>		Number per person				Tonnes per person					

lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>			PUBLIC	
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>				
Table 6 Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)				
	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)		
Single use plastic beverage bottles with the capacity of up to 3 litres				
Single use metal beverage containers with a capacity of up to 3 litres				

Cluster 8 Remaining obligations of economic operators		
Recitals corresponding cluster 8		
(39) It should be recalled that all ~~compostable packaging~~ constituting a food contact material is packaging in contact with food, including compostable packaging, has to meet the requirements set out in <u>under the scope of set out in</u> Regulation (EC) No 1935/2004 on materials and articles intended to <u>be brought come</u> into contact with food <u>or already in contact with food</u>. Where appropriate, the documentation and information required according to the legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.		

(51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.		
(51a) 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 provides common principles and reference provisions for the drawing up of legislation harmonising the conditions for the marketing of products. In order to ensure consistency with other sectoral product legislation and to simplify application and enforcement, this regulation should be aligned to that Decision, unless specific circumstances require a different solution <u>in this Regulation</u>. Therefore, ~~the current Regulation should have recourse to that~~ Decision <u>768/2008/EC should be used</u> as regards certain definitions, general obligations of economic operators, presumption of conformity,		

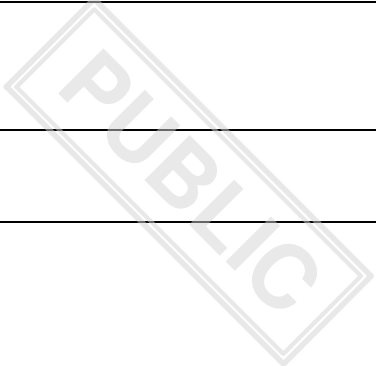
<u>provisions regarding</u> formal objections against harmonised standards, <u>and</u> notification procedures, and the provisions concerning procedures dealing with products presenting a risk, <u>when not otherwise specified in this Regulation.</u>		
(52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should therefore remain solely the obligation of the manufacturer.		
(53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.		

(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market ~~complies~~ complies with this Regulation, whether imported as ~~self-standing~~ standalone packaging or ~~in as part of~~ in association with a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		
(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		

(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		
Definitions article 3 corresponding :		

(6)	‘making available on the market’ means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;		
(7)	‘placing on the market’ means the first making available of a packaging on the Union market;		
(8)	‘economic operator’ means manufacturers, suppliers of packaging, importers, distributors, authorised representative , final distributors, and fulfilment service providers;		
(9)	‘manufacturer’ means any natural or legal person who manufactures packaging under its own name or trademark, or has packaging designed or manufactured <u>under its own name or trademark</u> ~~and uses that packaging for the containment, protection, handling, delivery or presentation~~		Scrutiny reservation

~~of products under its own name or trademark, without it having been placed on the market previously;~~		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State,</u>		Scrutiny reservation

<u>with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		
(11) ‘supplier’ 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 or presentation of products under its own name or trademark;~~		Scrutiny reservation

(12) 'importer' means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;		
(13) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;		
(14) 'authorised representative' means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer's obligations under this Regulation;		

<i>Article 13 Obligations of manufacturers</i>		
1. When placing packaging on the market, manufacturers shall ensure that the packaging complies with the following: (a) it has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; (b) it 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 VII. Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.		

3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10~~5 years after the <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market.</u>		
4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may be affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.	Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common ~~technical~~ specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may	CZ considers it necessary to use the term „common specification“ instead of „common technical specification“ in accordance with new Machinery Product Regulation – see comment on Article 32.

	be affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.	
5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.		
6. Manufacturers shall indicate on the packaging or on a QR code or another data carrier their name, registered trade name or registered trade mark as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code or other		Where should be the QR code placed if it is not on the packaging?

type of digital data carrier referred to in Article 11(2) or the data carrier referred to in Article 11(4) or in a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.		
7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market 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.		
9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or~~ electronic form and, on request, in paper form . The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.		
<i>Article 14 Information obligations of suppliers of packaging or packaging materials</i>		

10. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.		
11. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.		
<i>Article 15 Obligations of authorised representative</i>		

1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 13(1) and the obligation to draw up technical documentation referred to in Annex VII and required under Articles 5 to 10 shall not form part of the authorised representative's mandate.		
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following: (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~40~~ 5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market;</u> (b) cooperate with the national authorities, at their request, on any measures taken with regard to non-compliances of the packaging covered by the authorised representative's mandate;		

(c) further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging in a language or languages, which can be easily understood by that authority; (d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request; (e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.		
<i>Article 16 Obligations of importers</i>		
1. Importers shall only place on the market packaging which is compliant with the requirements of Articles 5 to 11.		

2. Before placing packaging on the market, importers shall ensure the following: (a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer; (b) the packaging is labelled in accordance with Article 11, (c) the packaging is accompanied by the required documents; (d) the manufacturer has complied with the requirements set out in Article 13(5) and (6). Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.		
3. Importers shall indicate on the packaging their name and their registered trade name or registered trade mark as well as the postal address, and, where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided via the data		

carrier or in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.		
4. Importers shall ensure that information provided in accordance with paragraph 3 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
5. Importers shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.		
6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.		

7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
8. Importers shall, for ~~40~~ 5 years after ~~the single-use~~ packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market,</u> keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.		
9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages,		

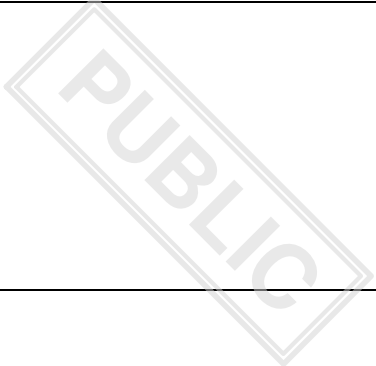
which can be easily understood by that authority. That information and documentation shall be provided ~~either in paper or in~~ electronic form and, on request, in paper form . The relevant documents shall be made available within 10 days of receipt of the request from the national authority.		
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 17 Obligations of distributors</i>		
1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.		

2. Before making packaging available on the market, distributors shall verify the following: (a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the register of producers referred to in Article 4039; (b) the packaging is labelled in accordance with Article 11; (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.		
3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer or importer is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or until the manufacturer complies. Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.		

4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken. Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~paper or~~ electronic form and, on request, in paper form.		

Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 18 Obligations of fulfilment service providers</i>		
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.		
<i>Article 19 Case in which obligations of manufacturers apply to importers and distributors</i>		
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 134, where they place packaging		

on the market under their own name or trademark or modify packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation		
<i>Article 20 Identification of economic operators</i>		
1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following: (a) the identity of any economic operator that has supplied them with packaging; (b) the identity of any economic operator to which they have supplied packaging.		
2. Economic operators shall be able to provide the information referred to in paragraph 1(a) for ~~10~~ 5 years after they have been supplied with the single-use packaging and ~~for~~ 10 years after they have been supplied a reusable packaging.		

<u>Economic operators shall be able to provide the information referred to in paragraph 1(b) 5 years after they have supplied the single-use packaging and for 10 years after they have supplied the reusable packaging.</u>		
<i>Article 49 Information on prevention and management of packaging waste</i>		
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 41(1), producer responsibility organisations shall make available to end-users, in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State:		

(a) the role of end-users in contributing to waste prevention, including any best practices; (b) re-use arrangements available for packaging; (c) the role of end-users in contributing to the separate collection of packaging waste materials, including handling of packaging containing hazardous products or waste; (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product; (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single-use packaging, in particular plastic carrier bags; (f) the composting properties and appropriate waste management options for compostable packaging. <u>Consumers shall be informed that compostable packaging is compostable in industrially controlled conditions and should not be thrown in home compost or nature.</u>		

Obligations under paragraph 1(d) shall be applicable as of <i>[OP: Please insert the date = 42 months after the entry into force of this Regulation]</i> or the date of application of Article 11, whichever is the latest.		
2. The information referred to in paragraph 1 shall be up to date and provided by means of: (a) a website or other means of electronic communication; (b) public information; (c) education programmes and campaigns; (d) signposting in a language, or languages, which can be easily understood by users and consumers.		
3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		

Cluster 9 Conformity		
Recitals corresponding cluster 9		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market comply<u>ies</u> with this Regulation, whether imported as ~~self-standing~~ <u>standalone</u> packaging or ~~in~~ <u>as part of in association</u> <u>with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		

(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate		

actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		

<i>Article 30 Test, measurement and calculation methods</i>		
For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, ~~and 21~~ and 29 24 of this Regulation, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.		
<i>Article 31 Presumption of conformity</i>		
1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been published in the <i>Official Journal of the European Union</i> , shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.		

2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Articles 5 to 11 and 24.		
<i>Article 32 Common ~~technical~~ <u>technical</u> specifications</i>	<i>Article 32 Common ~~technical~~ <u>technical</u> specifications</i>	General comment on Article 32: CZ considers it necessary (i) to use throughout the whole text the phrase “common specification”, and (ii) to replace the text of this Article with the text of Article 20 from the Machinery Regulation, duly modified for the purposes of this Regulation.
1. Packaging which is in conformity with common technical specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements		

set out in Articles 5 to 11 and 24 to the extent that those requirements are covered by those common technical specifications or parts thereof.		
2. The Commission may, by means of implementing acts, establish common technical specifications for the requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled: (a) there is no harmonised standard covering the relevant requirements the reference of which is published in the <i>Official Journal of the European Union</i> or the standard does not satisfy the requirements it aims to cover; and (b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled:		CZ strongly prefers to use the logic and text of Article 20 in the Machinery Regulation. As this paragraph is worded, there is a chaining of obligations to fulfil the conditions, i.e., at the beginning of the sentence and then in letter b).

(i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed; (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the standards requested: • are not adopted within the deadline set in the request; • do not comply with the request; or • are not fully in line with the requirements they aim to cover. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>2a. Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.</u>		
	<i>2b. When preparing the draft implementing act referred to in paragraph 2a, the Commission shall take into account the views of relevant bodies or the expert group and shall duly consult all relevant stakeholders.</i>	CZ strongly prefers to include this provision from the Machinery Regulation It is also included in the forthcoming legislation (for example SMEI Omnibus Directive and Regulation).

3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard <u>are</u> published in the <i>Official Journal of the European Union</i>, the Commission shall assess whether implementing acts referred to in paragraph 2, or parts thereof which cover the same requirements set out in Articles 5 to 11 and Article 24 need to be repealed or amended.	Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard <u>are</u> <u>is</u> published in the <i>Official Journal of the European Union</i>, the Commission <u>shall</u> <u>assess whether</u> <u>repeal the</u> implementing acts referred to in paragraph 2, or parts thereof which cover the same requirements set out in Articles 5 to 11 and Article 24 <u>need to be repealed or amended</u>.	When the harmonised standard will be published, the common specification shall be repealed in order to keep the status of common specification as “fall – back option” in accordance with explanation made by COM.
3a. <u>When a Member State considers that a common specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.</u>		

<i>Article 33 Conformity assessment procedure</i>		
Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.		
<i>Article 34 EU declaration of conformity</i>		
1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.		
2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be		

continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed on the market or made available on the market.		
3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall, where appropriate , be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.		CZ can agree with this adjustment, even if it does not consider it necessary in the context of the last sentence of this paragraph.
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.		

<u>ANNEX VII</u> <u>CONFORMITY ASSESSMENT PROCEDURE</u>		
Module A Internal production control		
1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 5 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to 10 of this Regulation that apply to them.		
2. Technical documentation		

The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the packaging. The technical documentation shall contain, wherever applicable, at least the following elements: (a) a general description of the packaging and of its intended use, (b) conceptual design, and manufacturing drawings and materials schemes of components, etc. (a) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging, (b) a list of: (i) the harmonised standards, referred to in Article 31, applied in full or in part (ii) the common technical specifications, referred to in Article 32, applied in full or in part		

(iii) other relevant technical specifications used for measurement or calculation purposes, (iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied, ~~(iv)~~ in the event of harmonised standards and/or common technical specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1. (c) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and, (d) test reports.		
3. Manufacturing The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.		

4. Declaration of conformity The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the packaging has been placed on the market. The declaration of conformity shall identify the packaging for which it has been drawn up. A copy of the declaration of conformity shall be made available to the relevant authorities upon request.		
5. Authorised representative The manufacturer's obligations set out in point 4 as regards keeping of the technical documentation may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.		

<u>ANNEX VIII</u> <u>EU DECLARATION OF CONFORMITY NO* ...</u>		
1. No.... (unique identification of the packaging):		
2. Name and address of the manufacturer and, where applicable, its authorised representative.		
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.		
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.		

5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).		
6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.		
7. ~~The~~ Where applicable, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).		CZ suggests to delete this provision. Even if it is coherent with the NLF (Dec. 768/2008), it is redundant, as this Regulation does not presume compulsory conformity assessment provided by notified body.
8. Additional information Signed for and on behalf of: (place and date of issue):		

(name, function) (signature)		
* (identification number of the declaration)		
Cluster 10 Safeguard procedures		
Recitals corresponding cluster 10		
(83) Regulation (EC) No 765/2008 of the European Parliament and of the Council^[1] 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. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the~~		Regulation (765/2008), having been amended by Regulation (EU) 2019/1020, no longer provides a framework for the supervision of non-food products.

~~marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 of the European Parliament and of the Council^[1] setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation. The market surveillance mechanisms laid down by Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the~~		The reference to Regulation 765/2008 does not make sense in this case.

~~marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(124) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.		
(131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS)		Recitals 131+132 deal with the transfer of data from/to ICSMS to customs systems. However, this is currently addressed by Regulation (EU) 2019/1020 and activities, including legislative ones, are

and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to identify packaging that may correspond to such a prohibition measure. The electronic ~~Electronic System~~ Customs Risk Management Control System (CRMS) set out in Article 36 of Commission Regulation (EU) 2447/2015, without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.		underway to link the two systems and to move data from customs systems to ICSMS. In the case of customs, under Regulation (EU) 2019/1020, customs authorities can use ICSMS to inform the supervisory authorities that the release of goods for free circulation has been suspended, whereas here it seems that it should be an obligation. However, this would then be in conflict with Regulation (EU) 2019/1020. We strongly recommend that attention is paid to these recitals and the relevant paragraphs in the Regulation and that they do not conflict with or duplicate Regulation (EU) 2019/1020

(132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for that interconnection.		
(133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the		

preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical information, including relevant international standards.		
<i>Article 52 Procedure for dealing with packaging presenting a risk at national level</i>		
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 requirements laid down in this Regulation that are relevant to the risk. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.		

Where, in the course of that evaluation, the market surveillance authorities find that the packaging does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective measures, within a reasonable period prescribed by the market surveillance authorities which is commensurate with the nature and, where relevant the degree of the non-compliance, to bring the packaging in compliance with those requirements.		
2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		

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

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.		
6. The information to the Commission and the other Member States referred to in paragraph 5 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 and, where applicable, the information referred to in Article 55 4—(1). The market surveillance authorities shall also indicate whether the non-compliance is due to either of the following: (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation;		

(b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.		
7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the adopted national measure, of their objections.		
8. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Provisional measures may provide for a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.		

9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.		
<i>Article 53 Union safeguard procedure</i>		
1. Where, on completion of the procedure set out in Article 52(3) (5) and (6) (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 by means of an implementing act whether the national measure is justified or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.		
3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.		

4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.		
<i>Article 54 Compliant packaging which presents a risk</i>		
1. Where, having carried out an evaluation under Article 52, a Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of risk, to ensure that the packaging concerned, when placed on the market, no longer presents that risk, ~~to withdraw the packaging from the market or to recall it.~~		

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		
4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the		

packaging, the nature of the risk involved and the nature and duration of the national measures taken.		
5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, propose appropriate measures. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3). On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 589(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.		

<i>Article 55 Controls on packaging entering the Union market</i>		The process of controlling products entering the market is addressed by Regulation (EU) 2019/1020. There is no reason for the controls on packaging to be addressed again in this Regulation, as long as it is generally under the EU Regulation 2019/1020. It is necessary to assess how Chapter VII of Regulation (EU) 2019/1020 is inadequate for customs controls on packaging and packaging materials. It is not clear what the added value of Article 55 of the draft Packaging Regulation is compared to Chapter VII of Regulation 2019/1020. In our view, Article 55 is unnecessary and should rather be deleted.
1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article 52(5) ~~(4)~~ of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the non-compliant packaging to which the measures apply and, in case of packaged product, the product itself.		

1a. The authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.		
2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.		
3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article 52(~~56~~) to the environment referred to in paragraph ~~2~~ 3. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph ~~4~~ 5.		

4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the implementation arrangements for paragraph 3 4- including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 4-. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).		
<i>Article 56 Formal non-compliance</i>		
1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned: (a) the EU declaration of conformity has not been drawn up (b) the EU declaration of conformity has not been drawn up correctly; (c) the QR code or data carrier referred to in Article 11 do not provide access to the required information in accordance with that Article;		

(d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors; (e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete; (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled; (g) the requirements on restrictions on uses of certain packaging formats and on excessive packaging set out in Articles 21 and 22 are not complied with; (h) in relation to reusable packaging, the requirements on the establishment, operation and participation in a system for re-use referred to in Article 24 are not fulfilled; (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled; (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled; (k) the re-use and refill targets in Article 26 are not achieved.		
2. Where the non-compliance referred to in paragraph 1, points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made		

available on the market or ensure that it is recalled or withdrawn from the market. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.		
Cluster 11 Final Chapters		
Recitals corresponding cluster 11		
(134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ~~the requirements~~ related to the ~~plastic~~ recycled plastic content for plastic beverage bottles as of 1 January 2030		Scrutiny reservation

should be deleted from Directive (EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted. <u>~~As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.~~</u>		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>~~with the main purpose of that Directive being to prevent littering and its environmental impact.~~</u> Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its		Scrutiny reservation

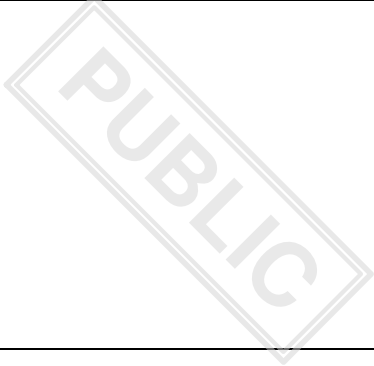
application, unless specifically provided otherwise in this Regulation.

Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use



<u>plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<u>(134bis) As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		Scrutiny reservation
(135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability		

requirements, the economic operators placing non-compliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.		
(136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.		

(137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.		
(138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC should therefore be repealed.		

(139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this ~~Directive~~ Regulation should be deferred.		
(140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application of the system of own resources of the Union with regard to the own resource bases~~d~~ on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.		
(141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure		

the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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.		
<i>Article 58 Exercise of the delegation</i>		
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article		

7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of ~~ten~~five years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period.		
3. The delegation of power referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later		

date specified therein. It shall not affect the validity of any delegated acts already in force		
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.		
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
6. A delegated act adopted pursuant to Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall enter into force only if no objection has been expressed		

either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 59 Committee procedure</i>		
1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ~~Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 72, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.~~ <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 55, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.</u>		
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 of that Regulation, shall apply.		

<i>Article 60 Amendments to Regulation (EU) 2019/1020</i>		
Regulation (EU) 2019/1020 is amended as follows: (a) Annex I is amended as follows: (i) point 9 is deleted; (ii) the following points are added: 'X [OP Please insert the next consecutive number] Directive (EU) 2019/904 of the European ~~Preliminary~~ Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1); ~~'X [OP Please insert the next consecutive number] Regulation (EU) .../... on packaging and packaging waste, amending Regulation~~		

(EU) 2019/1020, and repealing Directive 94/62/EC [for the Publications Office to fill in the OJ publication details]. (b) in Annex II, point 8 is deleted.		
<i>Article 61</i> <i>Amendments to Directive (EU) 2019/904</i>		
Directive (EU) 2019/904 is amended as follows: <u>(aa) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’</u> <u>Article 22(4a) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards single use plastic packaging listed in Annex V point 3.</u> <u>[Article 26(2) and (3) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u>		Scrutiny reservation

<u>[Article 45(4) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u> (a) in Article 6(5), points (a) and point (b), is are deleted as of 1 January 2030; (b) in Article 13(1), point (e), is deleted as of 1 January 2030; (c) Article 13(3) is be replaced by ‘3. The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’		

<i>Article 62 Penalties</i>		
1. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ~~Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator.~~		
2. Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator. Where the legal system of the Member State does not provide for administrative fines, the first paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national courts, while ensuring		

that those legal remedies are effective and have equivalent effect to the administrative fines referred to in that paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.		
3. Member States shall, by <i>[OP: please insert the date = 1 year after the date of entry into force of this Regulation]</i> , notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 63 Evaluation</i>		
By <i>[OP: Please insert the date = 8 years after the date of application of this Regulation]</i> , the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of packaging. The Commission shall present a report		

on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.		
<i>Article 64 Repeal and transitional provisions</i>		
Directive 94/62/EC is repealed with effect from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. However, the following transitional provisions shall apply: (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = 42 months after the date of entry into force of this Regulation]; (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the calendar		

<i>year following 36 months after the data entry into force of this Regulation</i>]; (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the same calendar year ~~following in which the period of 36 months after the date of entry into force ends of this Regulation~~], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months after the date entry into force of this Regulation]. <u>(ca) Commission Decision 2001/171/EC and Commission Decision 2009/292/EC shall remain into force and continue to apply until repealed by delegated acts adopted by the Commission adopted pursuant to Article 5(5a) of this Regulation.</u> References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.		

<i>Article 65 Entry into force and application</i>			
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States.			
<u>ANNEX XIII</u> <u>CORRELATION TABLE</u>			
<i>Directive 94/62/EC</i>	<i>This Regulation</i>		
Article 1(1)	Article 1(1-2)		
Article 1(2)	Article 1(3)		
Article 2(1)	Article 2(1)		
Article 2(2)	Article 2(2)		
Article 3(1), first subparagraph	Article 3(1)		
Article 3(1), second subparagraph, point (a)	Article 3(2)		
Article 3(1), second subparagraph, (b)	Article 3(3)		
Article 3(1), second subparagraph, point (c)	Article 3(4)		

Article 3(1), third subparagraph, point (i)	Article 3(1)(a)	PUBLIC	
Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)		
Article 3(1), third subparagraph, point (iii)	Article 3(1)(b-c)		
Article 3(1a)	Article 3(43)		
Article 3(1b)	Article 3(44)		
Article 3(1c)	Article 3(45)		
Article 3(1d)	Article 3(46)		
Article 3(1e)	---		
Article 3(2)	Article 3(20)		
Article 3(2a)	Article 10(1)		
Article 3(2b)	Article 3(19)		
Article 3(2c)	Article 3(60) and fourth subparagraph of Article 3		
Article 3(11)	Article 3(8)		
Article 3(12)	---		
Article 4(1), first subparagraph	Article 38(2)		
Article 4(1), second subparagraph	---		
Article 4(1), third subparagraph	Article 38(3)		
Article 4(1a), first subparagraph	Article 29(1), first subparagraph		
Article 4(a1a), second subparagraph	Article 29(2), second sentence		
Article 4(a1a), third subparagraph	Article 29(2), first sentence		
Article 4(1a), fourth subparagraph, point (a)	Article 29(1), second subparagraph		

Article 4(1a), fourth subparagraph, point (b)	Article 29(4)		
Article 4(1a), fifth subparagraph	Article 50(1), point (b)		
Article 4(1a), sixth subparagraph	Article 50(7), point (b)		
Article 4(1b)	Article 29(3)		
Article 4(1c)	---		
Article 4(2)	---		
Article 5(1)	Article 45(1)		
Article 5(1)(a)	Article 45(2), point (a)		
Article 5(1)(b)	Article 26(1-10)		
Article 5(1)(c)	Article 45(2), point (b)		
Article 5(1)(d)	Article 45(2) point (c)		
Article 5(2), first subparagraph	Article 48(1), first subparagraph		
Article 5(2), second subparagraph, point (a)	Article 48(1), second subparagraph, point (a)		
Article 5(2), second subparagraph, point (b)	Article 48(1), second subparagraph, point (b)		
Article 5(2), third subparagraph	Article 48(1), third subparagraph		
Article 5(3)	Article 48(2)		
Article 5(4)	Article 50(7), point (a)		
Article 5(5)	---		
Article 6(1)(a)	---		
Article 6(1)(b)	---		
Article 6(1)(c)	---		
Article 6(1)(d)	---		
Article 6(1)(e)(i)	---		
Article 6(1)(e)(ii)	---		

Article 6(1)(e)(iii)	---	PUBLIC	
Article 6(1)(e)(iv)	---		
Article 6(1)(e)(v)	---		
Article 6(1)(f)	Article 46(1)(a)		
Article 6(1)(g)(i)	Article 46(1)(b)(i)		
Article 6(1)(g)(ii)	Article 46(1)(b)(ii)		
Article 6(1)(g)(iii)	Article 46(1)(b)(iii)		
Article 6(1)(g)(iv)	Article 46(1)(b)(iv)		
Article 6(1)(g)(v)	Article 46(1)(b)(v)		
Article 6(1)(g)(vi)	Article 46(1)(b)(vi)		
Article 6(1)(h)	Article 46(1)(c)		
Article 6(1)(i)(i)	Article 46(1)(d)(i)		
Article 6(1)(i)(ii)	Article 46(1)(d)(ii)		
Article 6(1)(i)(iii)	Article 46(1)(d)(iii)		
Article 6(1)(i)(iv)	Article 46(1)(d)(iv)		
Article 6(1)(i)(v)	Article 46(1)(d)(v)		
Article 6(1)(i)(vi)	Article 46(1)(d)(vi)		
Article 6(1a)(a)	Article 46(2)(a)		
Article 6(1a)(b)	Article 46(2)(b)		
Article 6(1a)(c)	Article 46(2)(c)		
Article 6(1a)(d)	Article 46(2)(d)		
Article 6(1b)	Article 46(3)		
Article 6(1c)	Article 46(4)		
Article 6(4)(a)	Article 46(5)(a)		
Article 6(4)(b)	Article 46(5)(b)		
Article 6(6)	Article 49(2)		
Article 6(7)	---		
Article 6(10)	Article 46(6)		
Article 6(11)	---		
Article 6a(1)(a)	Article 47(2)		

Article 6a(1)(b)	Article 47(3)	PUBLIC	
Article 6a(2)	Article 47(6)		
Article 6a(2)(a)	Article 47(6)(a)		
Article 6a(2)(b)	Article 47(6)(b)		
Article 6a(3)	Article 47(7)		
Article 6a(4)	Article 47(8)		
Article 6a(5)	Article 47(9)		
Article 6a(6)	Article 47(10)		
Article 6a(7)	Article 47(11)		
Article 6a(8)	Article 47(12)		
Article 6a(9)	Article 50(7), point (a)		
Article 6b	Article 36		
Article 7(1)	Article 43(1) and (2)		
Article 7(2)	Articles 39-42		
Article 7(3)	Article 43(3)		
Article 7(4)	Article 43(4)		
Article 8(1)	Article 11		
Article 8(2)	Article 11(1)		
Article 8(3)	Article 11(4)		
Article 8a	Article 11(1) and (5)		
Article 9(1)	Articles 5-10		
Article 9(2)(a)	Article 31		
Article 9(2)(b)	---		
Article 9(3)	---		
Article 9(4)	---		
Article 9(5)	---		
Article 10	Article 31(2)		
Article 11(1)	Article 5(2)		
Article 11(2)	---		
Article 11(3)	Article 5(5)		

Article 12(1)	Article 51(1)	PUBLIC	
Article 12(2)	Article 51(2)		
Article 12(3a)	Articles 50(1) point (a), 50(3) point (a) and 50(4)		
Article 12(3b)	Article 50(5) and 50(6)		
Article 12(3c)	-		
Article 12(3d)	Article 50(7)		
Article 12(4)	Article 50(8)		
Article 12(6)	Article 50(8)		
Article 13, first subparagraph	Article 49(1)		
Article 13, second subparagraph	---		
Article 14	Article 37		
Article 15	Article 29, Article 38, Article 45		
Article 16(1)	---		
Article 16(2)	---		
Article 18	Article 4		
Article 19(1)	---		
Article 19(2)	---		
Article 20	---		
Article 20a(1)	---		
Article 20a(2)	---		
Article 20a(3)	---		
Article 21(1)	Article 59(1)		
Article 21(2), first subparagraph	Article 59(3), first subparagraph		
Article 21(2), second subparagraph	Article 59(3), second subparagraph		
Article 21a(1)	Article 58(1)		
Article 21a(2)	Article 58(2)		

Article 21a(3)	Article 58(3)		
Article 21a(4)	Article 58(4)		
Article 21a(5)	Article 58(5)		
Article 21a(6)	Article 58(6)		
Article 22(1)	---		
Article 22(2)	---		
Article 22(3)	---		
Article 22(3a), first subparagraph	---		
Article 22(3a), second subparagraph, point (a)	---		
Article 22(3a), second subparagraph, point (b)	---		
Article 22(3a), second subparagraph, point (c)	---		
Article 22(3a), second subparagraph, point (d)	---		
Article 22(3a), second subparagraph, point (e)	---		
Article 22(3a), second subparagraph, point (f)	---		
Article 22(4)	---		
Article 22(5)	---		
Article 23	---		
Article 24	---		
Article 25	---		
Annex I	Annex I		
Annex II, point 1	Articles 5, 6, 9 and 10 and Annexes II and IV		
Annex II, point 2	Article 10 and Annex IV		
Annex II, point 3(a)	Article 6 and Annex II		
Annex II, point 3(b)	---		

Annex II, point 3(c)	Articles 8 and 3(41) and Annex III	PUBLIC	
Annex II, point 3(d)	Articles 8 and 3(41) and Annex II		
Annex III	Annex XII		
Annex IV	Annex XI		

EE COMMENTS**ANNEX I – PART 2 OF THE TEXT REV01. CLUSTER 2, 4 AND 5.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 2,4 and 5 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 2 – Labelling, marking and information requirements		
<i>Recitals corresponding cluster 2:</i>		
(44) It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles.		
(45) To facilitate consumers ~~in the~~ sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should		

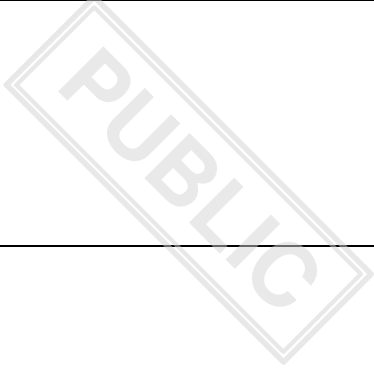
provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. <u>It is only specifically home-compostable packaging which is suitable for home-composting.</u> This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.		

(46) Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.		
(47) In order to inform end-users about reusability, availability of systems for re-use and location of collection points as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code <u>may contain information which should also</u> facilitates tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale.		
(48) There should be no multiplication of labels on packaging. In order to avoid this, where other Union legislation		

requires information on the packaged product to be available digitally through a data carrier, the information required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. <u>Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable promoting circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging circularity.</u>		

(49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It should be possible to identify packaging included in the extended producer responsibility scheme by means of an accreditation symbol throughout the territory of that system. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging. To this end, it could be considered that the Green Dot symbol, which is used in some Member States to signify that a producer has made a financial contribution to a national packaging recovery system¹, could mislead consumers to believe that packaging bearing such a symbol is always recyclable. ¹ https://www.pro-e.org/the-green-dot-trademark		

<u>(49a) Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>		
(49ab) [Placeholder: Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between the provisions of the Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, provides that		

displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]		
(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of <u>standardised, open,</u> digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should <u>keep linguistic elements to a minimum and</u> take into account scientific or other available technical information, including relevant international standards. The labelling of packaging subject to a harmonised deposit and return system should be designed with consideration <u>given</u> to the ~~different countries' currency deposit system variation in the deposit being charged, which may exist between Member States.~~ In view of the		

new system, Commission Decision 97/129/EC ² should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.		
<i>Article 11 Labelling of packaging</i>		
1. From <u>42 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest,</u> ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, ~~packaging~~ <u>packaging placed on the market</u> shall be marked with a label containing information on its material composition <u>and including</u> for the packaging referred to in <u>Article 8(1) and (2), that the material is compostable.</u> This obligation does not apply to transport packaging. However, it applies to e-commerce packaging. Packaging subject to deposit and return systems referred to in Article 44(1) shall, ~~in addition to the labelling referred to in the first~~		

² 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).

~~subparagraph~~, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.		
2. Reusable packaging placed on the market ~~from~~ <u>48 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest</u> ~~[OP: Please insert the date = 48 months after the date of entry into force of this Regulation]~~, packaging shall bear a label informing that ~~it~~ the packaging is reusable on packaging reusability and a QR code or other type of <u>standardized, open,</u> digital data carrier that provides further information on packaging reusability including the availability of a <u>local, national or EU-wide</u> system for re-use and <u>of information on</u> collection points, and that facilitates the tracking of 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 ~~If~~ a unit of packaging <u>is</u> ~~covered by Article 7~~ placed on the market from <u>42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the</u>		

<u>latest</u> ~~[OP: Please insert the date – xx months after the entry into force of this Regulation]~~, <u>and</u> is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).		
4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly ~~and indelibly~~ on the packaging; and the information shall be available to end users before the purchase of the product in distance sales when the product is sold online ~~e. 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.~~ The information contained in the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily	The information contained in the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily understood <u>and is in appropriate size and contrast</u> by end users as determined by the Member State in which the packaging is to be made available on the market.	The addition are acceptable but we believe that there should be also be given to the needs of the visually impaired to ensure that signage is of appropriate size and contrast.

understood by end users as determined by the Member State in which the packaging is to be made available on the market. Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.		
5. By <i>[OP: Please insert the date = 18 months after the date of entry into force of this Regulation]</i>, the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 ~~and the labelling of waste receptacles referred to in Article 12.~~ <u>The Commission shall take into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States' different currencies and deposits system.</u> ~~The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~		

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
6. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</u> <u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>		
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.		
8. Packaging included in an extended producer responsibility scheme ~~or covered by a deposit and return system other than that referred to in Article 44(1)~~ may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.		
<u>8a. Packaging covered by a deposit and return system referred to in Article 44(1) shall be labelled with the harmonised label in accordance with paragraph 1. These packaging may, in addition, by virtue of national law and on the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States, be identified by means of a corresponding symbol throughout the territory in which that</u>		

<u>scheme or system applies. Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. The symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</u>		
<i>Article 12 Labelling of waste receptacles for the collection of packaging waste</i>		
1a. By 1 January 2028, ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation], 42 months after the entry into force of this Regulation, or 24 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest,~~ Member States shall ensure that labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ are affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. <u>A receptacle for packaging waste may bear more than one</u>		

<u>label.</u> This obligation does not apply to receptacles covered by a deposit and return system.		
Cluster 4 Waste prevention		
<i>Recitals corresponding cluster 4:</i>		
<u>(10a) Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are not designed and intended to be filled at the point of sale. Only when these items are designed and intended to be filled at the point of sale or offered for sale pre-filled, they should be considered packaging, provided that they perform a packaging function.</u>		
(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions. 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 13428:2000^[1], should therefore be modified. 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 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. 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.

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



(41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space ~~in~~ grouped and transport packaging, including e-commerce packaging.		
(42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and specify measurable design criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.		
(60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space ratio		Empty space ratio 40% could be more ambitious or addition “at least” should be

should be set on economic operators who fill the packaging and in terms of reducing the empty space when for the using of such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or end user, the empty space ratio should not exceed 40 %. In line with the waste hierarchy and to promote packaging innovation with the aim of packaging waste reduction, it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation.		taken into consideration.
(61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and food hygiene, and facilitate the achievement of the packaging waste prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the list. <u>The Commission will publish guidelines explaining in more detail Annex V, including</u>		

<u>examples of the packaging and guidance as regards the exemptions.</u>		
(72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council^[1]. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements.		

^[1] 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).		
(73) In view of the results of the evaluation study on plastic carrier bags^[1], 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. ^[1] 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) <u>To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory,</u>~~The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory~~ <u>may adopt measures which</u> include banning these types of plastic carrier bags, ~~the use of~~ implementation of national reduction targets, maintaining or introducing economic instruments as well as other marketing restrictions, provided that these ~~restrictions~~		

measures are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %,		

compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt		

provisions which go beyond the minimum targets set out in this Regulation.		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (~~e.g.~~ i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact</u>. Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, <u>unless specifically provided otherwise in this Regulation</u>. <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a</u>		

consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.



Articles		
Definitions from Article 3 regarding cluster 4:		
(21) 'packaging waste prevention' means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, <u>including re-use and measures to extend the life of the packaging before it becomes waste.</u>		
Article 9 Packaging minimisation		
1. ~~Packaging shall be~~ The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.		
2. The manufacturer or importer shall ensure that p ackaging ~~not necessary to~~ complying with any of the performance criteria set out in Annex IV ~~and/or~~ 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 subject to geographical indications of origin protected under Union legislation.		
<u>3. The economic operator who fills the packaging shall ensure that empty space shall be reduced to the minimum necessary for ensuring the packaging functionality, including product protection, as follows:</u> <u>(a) for sales packaging, in relation to the total volume of the packaged product and its characteristics;</u> <u>(b) for grouped and transport packaging, including e-commerce packaging, in relation to the total volume of the grouped or transported products and their sales packaging;</u> <u>For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		

4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements: (a) an explanation of the technical specifications, standards, and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV; (b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria; (c) any test results, studies or other relevant sources such as modelling and simulation studies used to assess the minimum necessary volume or weight of the packaging. For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, and in the first place the requirements set out thereof.		
4a. months after entry into force of this Regulation, the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and		

measurement of compliance with the requirements concerning packaging minimisation under this Regulation. <u>For certain most common packaging types and formats such standards should and specifying</u> maximum adequate weight and volume limits, and, if appropriate, <u>wall thickness and</u> _maximum empty space <u>for certain most common packaging types and formats.</u>		
<i>Article 21 Obligation related to excessive packaging</i>		
1. Economic operators who supply products 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 %.		
2. For the purpose of this calculation: (a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein;		

(b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-commerce packaging. Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene or Styrofoam chips <u>or other filling materials</u>, shall be considered as empty space.		
<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		

3. Economic operators using sales packaging as e-commerce packaging <u>or using reusable packaging</u> shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements set out in Article 9.		
<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>		
<i>Article 22 Restrictions on use of certain packaging formats</i>		
1. <u>At the latest, three years after entry into force of this Regulation,</u> ~~E~~economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.		

2. <u>By way of derogation from paragraph 1, economic operators shall not place on the market packaging in the formats and for the purposes listed in point 3 of Annex V as of 1 January 2030.</u>		
3. Member States may exempt micro-enterprises defined in accordance with the Commission Recommendation 2003/361/EC , ~~economic operators~~ from point 3 of Annex V if they ~~comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361~~ , as publicly available applicable on [<i>OP: Please insert the date = the date of entry into force of this Regulation</i>], ~~and where~~ if it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.		
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend Annex V in order to		

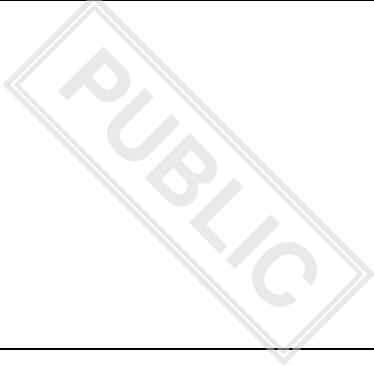
adapt it to technical and scientific progress with the objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the restrictions on the use of specific packaging formats to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.		
4a. <u>48</u> months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, explaining in more detail Annex V, including examples of the packaging <u>formats in scope</u> and <u>guidance as regards the any</u> exemptions.		

<i>Article 29 Plastic carrier bags</i>		
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, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.		On plastic carrier bags, we agree that Member States must have the flexibility to decide whether they also have to be compostable. We support the need for all other packaging to be recycled.
2. Measures to be taken by Member States to meet the target set out in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include the banning of lightweight plastic carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory.		

3. In addition to the measures under paragraphs 1 and 2 above, Member States may take measures, such as economic instruments, and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		
<u>3a.</u> <u>In case the Member State adopts national reduction targets concerning certain plastic carrier bags, they can introduce measures to achieve such targets, which may, by way of derogation from Article 4, include the banning of such carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory .</u> <u>If the measures take the form of bans, Member States shall monitor the effects of such measures and revoke the measures immediately in case there is a risk the end users can replace the use of banned carrier bags with a product having a more detrimental impact on the environment.</u>		
4. Member States may exclude very lightweight plastic carrier bags ~~which~~ <u>that which</u> are required for hygiene purposes or provided as		

sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		
<i>Article 38 Prevention of packaging waste</i>		
1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by 2030; 1. 10 % by 2035; 1. 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. For the purpose of paragraph 2, Member States may introduce packaging waste prevention measures going beyond the minimum measures set out in this Article, while complying with the provisions set out in this Regulation. Such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC, or other appropriate instruments and measures, including incentives through extended producer responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. ~~Such measures~~ They shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
<u>3a. By way of derogation from paragraph 1, Member States may at the latest by [xx] request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2-3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under</u>		

<u>the condition that the Member State provide substantiated evidence (i) of a significant increase of packaging waste during the year to be used for base as calculation of the targets under paragraph 1 (ii) that such increase is due to changes in the reporting procedures only, and (iii) the increase is not due to an increased consumption.</u>		
4. By [OP: Please insert the date = 8 years after the date of entry into force 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 the Commission finds it appropriate, by a legislative proposal.		
~~5. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article.~~		

<u>ANNEX IV</u> <u>METHODOLOGY FOR PACKAGING MINIMISATION</u> <u>ASSESSMENT</u>		
PART I Performance criteria		
1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.		
2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. The packaging manufacturing processes may determine packaging design elements such as the shape of a		

container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.		
3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. Requirements may consist of dimensional co-ordination for optimum space utilisation, compatibility with palletizing and de-palletizing systems, handling and warehousing system, packaging system integrity during transport and handling.		
4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. Requirements may consist of		

providing product information, instructions for storage, application and use, bar codes, best before date, etc.		
5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. Requirements may consist of: safe handling design, child resistance, tamper evidence, hazard warnings, clear identification of content, safe opening device, pressure release closure, etc.		
6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.		
7. Recycled content, recyclability and re-use: The packaging design shall ensure reusability, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. This means that the packaging		

weight or volume may have to be increased, beyond what would otherwise be possible under the other performance factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material).		
PART II Assessment methodology and determination of the minimum packaging volume and weight		
The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:		
~~(b)~~ (aa) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;		

(a) (ab) for each performance criterion as listed in Part I, ~~a list of design requirements~~ a description shall be made which explains the design requirement that ~~which~~ prevents further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging material shall be investigated. It shall not be sufficient to substitute one packaging material with another;		
(c) any test results, market research or studies that have been used for the assessment conducted under points (aa) and (ab).		

ANNEX V					
RESTRICTIONS ON USE OF PACKAGING FORMATS					
	Packaging format	Restricted use	Illustrative example		
1	Single-use plastic grouped packaging	Plastic packaging used at <u>the point of sale</u> ~~retail level~~ to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage <u>consumers</u> ~~and users~~ to purchase more than one product. This	Collation films, shrink wrap		

		excludes grouped packaging necessary to facilitate handling in <u>business-to-business</u> distribution.			
2	Single use ~~plastic packaging,~~ ~~single use composite packaging or other~~ single use packaging for <u>unprocessed</u> fresh fruit and vegetables	Single use packaging for less than 1.5 kg <u>pre-packed</u> fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards or physical shocks, <u>oxidation,</u>	Nets, bags, trays, containers		

		<u>with the exemption of packaging needed to avoid commingling of organic fruits and vegetables with non-organic fruits and vegetables according to Regulation (EU) 2018/848. Exemptions can also be made in the case there is no other possibility to comply with the requirements in regulation EU 2018/848, such as</u>			

PUBLIC

		<u>certification</u> <u>or labelling.</u>			
3	Single use ~~plastic~~ <u>packaging,</u> ~~single use~~ <u>composite</u> ~~packaging or~~ ~~other single~~ <u>use packaging</u>	Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by	Trays, disposable plates and cups, bags, ~~foil~~ , boxes		

		several economic operators or third party for the purpose of food and drinks consumption. <u>Packets and wrappers made from flexible material for the purpose of containing food that is intended for immediate consumption from the packet or wrapper without any further preparation, may be exempted.</u>			

4	Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector	Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation	Sachets, tubs, trays, boxes	PUBLIC	
5	Single use hotel miniature packaging	For <u>disposable</u> cosmetics, hygiene and toiletry products of	Shampoo bottles, hand and body lotion bottles, sachets around		

		less than 50 ml for liquid products or less than 100 g for non-liquid products <u>for the use in the accommodati on sector, according to NACE Rev. 2 – Statistical classification of economic activities^[1], intended for a single service and discarded before the next guest arrives.</u> ^[1] NACE code I55, list can be found in EUROPA - Competition - Cases by NACE code - I	miniature—bar soap		

Cluster 5 General provisions including the legal basis (Articles 1,2,4)		
<i>Recitals</i>		
(1). Products need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Prevention of barriers ~~to~~on the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause additional cost to the economic operators.		
(2). In addition, packaging uses high amounts of virgin materials (40 % of plastics and 50 % of paper use in the Union is for packaging) and represents 36 % of municipal solid waste^[1]. High and constantly growing levels of packaging generated as well as low levels of re-use and poor recycling, present significant barriers to achieving a low-carbon circular economy. For these reasons, this Regulation should establish rules over the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and reducing the		

adverse impacts of packaging and packaging waste on the environment and human health. By laying measures in line with the hierarchy of waste, it should contribute to the transition to a circular economy. ^[1] Eurostat, Packaging waste statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics		
(3) .European Parliament and Council Directive 94/62/EC^[1] lays down requirements for Member States on packaging, such as essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and recovery and recycling targets. ^[1] European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).		
(4) .In 2014, a Fitness Check relating to Directive 94/62/EC^[1] recommended adaptations of the essential requirements to make them “more concrete and easily enforceable” and to strengthen them,		

which were seen as a key tool to achieve better environmental performance of packaging. ^[1] European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209		
(5). In line with the Green Deal^[1], the new Circular Economy Action Plan (CEAP)^[2] 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 Union-wide labelling that facilitates the correct separation of packaging waste at source. ^[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN ^[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter		

(6). Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately five-times better than incineration with energy recovery^[1]. Just as the European Strategy for Plastics^[2] states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of own resources contribute to reducing pollution from plastic packaging waste^[3]. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource is part of incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy.

^[1] 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.

^[2] 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.



^[3] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM(OJ L 424, 15.12.2020, p. 1).		
(7). The Council underlined in its Conclusions of December 2020^[1], that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions to facilitate 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 materials, especially concerning food packaging materials, and to provide for labelling packaging in an easily understandable way to inform consumers about its recyclability and where its waste should be discarded to facilitate sorting and recycling. ^[1] https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf		
(8). The European Parliament's Resolution of 10 February 2021 on the New Circular Economy Action Plan^[1] reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a		

legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use. ¹¹ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html		
(12). In line with the waste hierarchy set out in Article 4(2) of Directive 2008/98/EC, and in line with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for 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 packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, 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 higher recycling rates for all packaging and high quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.		

(13). Packaging should be designed, manufactured and commercialised in such a way as to allow for 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.		
(32). It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies. Regarding plastic packaging except where made from polyethylene terephthalate (PET), it will be warranted, sufficiently ahead of the date of application of the related recycled content requirements, to re-assess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on this assessment, there might be need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to		

adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.		
<i>Articles</i>		
<i>Article 1 Subject matter</i>		
1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market, as well as for the extended producer responsibility, collection, and treatment, including ~~and~~ recycling of packaging waste.		
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, distortion and restriction of competition within the		

Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental protection.		
3. This Regulation contributes to the transition to a circular economy, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.		
<i>Article 2 Scope</i>		
1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.		

2. This Regulation applies without prejudice to Union regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the hygiene of the packed products, or to transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.		
<i>Article 4 Free movement</i>		
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 making available on the market for the first time within the territory of a Member State of packaging that		

complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 ~~0~~ of this Regulation.		
~~3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.~~		
4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the ~~placing~~ making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements.		

5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system ~~other than those referred to in Article 44(1)~~ .		
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it has been brought into conformity.		

PUBLIC

EE COMMENTS**ANNEX II – PART 3 OF THE TEXT REV01. CLUSTER 6, 8 - 11.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 6 and from 8 to 11 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

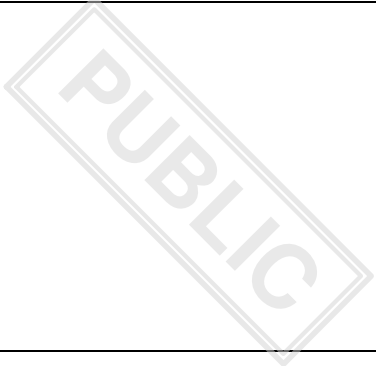
REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 6 Management of packaging waste		
<i>Recitals corresponding Cluster 6</i>		
(84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and 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.		

(85) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.		
(86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.		

(87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.		
(88) As collection and management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the mMeasures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive 2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>		

(89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should		

entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets,		

volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(93) 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 of the European Parliament and of the Council^[4], makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark.~~ <u>To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. The Regulation seeks to clearly define one producer per packaging unit, be it for empty</u>		

<u>packaging or for packaging containing products. As a general rule, the producer should be the economic operator located in the Member State where the packaging is made available for the first time. The exception is when packaging is made available by means of distance contracts directly to the end-user when the producer is established outside the EU. The definition of producer takes into account, which economic operator is best placed to comply with the producer-related obligations, but also seeks to minimize unnecessary administrative burden for small businesses filling service packaging at the point of sale.</u> [1] 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).		
(94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State, it is necessary		

that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.		
(95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.		
(96) In line with the polluter-pays principle expressed in Article 191(2) of the Treaty, it is essential that the producers placing on the Union market packaging and packaged products take responsibility		

for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. <u>For example, in order to facilitate the separate collection of packaging waste, the producers shall finance the labelling of waste receptacles. This is in line with the producer pay principle and the general minimum requirements for EPR schemes established in Directive 2008/98/EC.</u>		
(96a) As regards extended producer responsibility (EPR) obligations, this Regulation is a <i>lex specialis</i> in relation to		

Directive 2008/98/EC, which means that where this Regulation ~~has~~ sets out EPR-related provisions, these should prevail over any conflicting provisions in that Directive. This concerns, for example, requirements on producer registration, fee eco-modulation of EPR fees and reporting. ~~However, all~~ Where this Regulation does not provide for a full harmonisation as regards ~~other~~ measures related to EPR or additional rules on non-harmonised topics in relation to EPR, Member States should be able to provide for additional measures, provided such measures are in accordance with Directive 2008/98/EC and consistent both with the national laws transposing that Directive and with this Regulation, should be regulated in accordance with the provisions of Directive 2008/98/EC and national rules transposing that Directive, without and do not create barriers to the internal market. ~~Furthermore, this Regulation does not regulate arrangements of the systems of collection of packaging waste, as this is an example of a matter that is set by national law transposing Directive 2008/98/EC. The same rule applies as regards separate collection of packaging waste and the labelling of waste receptacles. However, this Regulation does not regulate which operator is responsible for the collection of packaging~~

PUBLIC

<u>waste and other national contractual arrangements for packaging waste collection.</u>		
<u>(96b) In addition to the harmonized requirement on recyclability for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6), Member States should be allowed to use other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.</u>		
(97) Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and		

producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. <u>Moreover, when establishing measures ensuring that arrangements are to be concluded with distributors, public authorities or third parties carrying out waste management, Member States should allow for preliminary, or similar, agreements, and require that binding agreements are concluded only within a reasonable timeframe after the authorisation.</u>		
(98) This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council^[1] lays down rules on the traceability of traders, which more specifically contain obligations for are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the		

registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to be a trader as defined in Regulation (EU) 2022/2065. In order to prevent free-riding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In that context, providers of online platforms, falling within the scope of Section 4 of Chapter III 3 of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, **in line with Regulation (EU) 2022/2065**, from those producers, information about their compliance with the extended producer responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in Regulation (EU) 2022/2065.

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



(99) Member States should provide for the measures for the extended producer responsibility under this Regulation <u>and may also provide further requirements for extended producer responsibility</u> in accordance with the provisions of Directive 2008/98/EC and of this Regulation.		
(100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.		

(101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of minimum percentage set for recycled content in plastic packaging.		
(102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high collection rates of metal beverages containers, it is appropriate that Member States establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.		

(103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging 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. In such situations, a Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Regulation.		
(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products, spirit drinks and milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the		

European Parliament and of the Council^[1]. Member States may establish deposit and return systems covering also other packaging. 1. ^[1] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).		
(105) All deposit and return systems <u>established after 1 January 2028</u> should comply with the <u>general</u> minimum ~~general~~ requirements laid down in this Regulation. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.		

(106) Member States and all 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. <u>The Commission, in consultation with Member States, should develop guidelines, including best-practices, for system inter-operability in regions with high transboundary business.</u>		
(107) Member States which achieve 90 % collection rate of the targeted packaging types without a deposit and return system two consecutive calendar years preceding the entry into force of this obligation, may request not to establish a deposit and return system.		
(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill		

solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation and managing systems for different packaging formats, Member States are allowed to have a different system operator for the re-use system and another operator for the system for single-use plastic beverage bottles and single use metal beverage containers. However, only one operator per system should be allowed.</u>		
(109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council^[1] setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be		

retained. 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, it should not be possible to postpone the deadlines for attaining the 2030 recycling targets. [1] 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).		
(110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more ~~recyclable packaging, coupled with greater granularity of~~ data on the packaging and packaging waste recycling flows, should be reported to the Commission. That will enable the Commission to review the targets with the possibility of		

maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 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 than the current targets.		
(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation, to be corrected with average loss rates occurring before the waste enters the recycling operations. Losses of materials which		

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

PUBLIC

(112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for		

subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004^[1] laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC. ^[1] Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).		

(115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council^[1] applies. ^[1] 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).		
(116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by taking into account maximum 5 percentage points of the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.		

(117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. **They should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. Only packaging listed in this Regulation and marked as home-compostable is suitable for home composting. No packaging is suitable for biodegradation in nature.** The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies. The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.



<u>(117a) For labelling of biobased plastic content,</u> ~~t~~The Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics^[1] (COM 2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, <u>fully or partly,</u> ~~made from biomass~~ <u>biobased feedstock</u> . The biomass currently originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by-products, such as used cooking oil, bagasse and tall oil. ~~Plastics can be fully or partially made from biobased feedstock.~~ Biobased plastics can be both biodegradable and non-biodegradable. ^[1] https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en		

(118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. Providing of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return systems to be set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.		
(119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type,		

amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.		
(120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.		
(121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission so that the latter ~~to~~ can establish rules for calculation and verification of data on attainment of the recycling targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging		

waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896^[1] and 2005/270/EC^[2]. ^[2] Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).		
(122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation, the Member States should establish packaging databases and ensure that they are well-functioning		
<u>Corresponding definitions in Article 3</u>		

(1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, <u>also referred to as ‘service packaging’</u> .		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark~~; <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the</u>		We stay on scrutiny reserve.

<u>exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		
(15) authorised ~~appointed~~ representative for the extended producer responsibility' 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 VII of this Regulation;		

(50) '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;		
(51) 'deposit and return system' means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;		

(52) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;		
(53) 'harmonised standard' means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;		
(55) 'producer responsibility organisation' means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;		
(56) 'life-cycle' means the consecutive and interlinked stages that packaging goes through, ~~including the packaging waste management stage~~ , from raw material acquisition or generation from natural resources to ~~final disposal of the packaging waste management~~ .		

(59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;		
(60) ‘ waste’ means waste as defined in Article 3 point (1) of Directive 2008/98/EC, with the exception of reusable packaging conveyed to reconditioning;		
<i>Article 35</i> <i>Competent authority</i>		
1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations set out in this Chapter and in Article ~~6(9)~~ , 26(1) to (10), Article 27, Article 28 and Article 29.		
2. Member States shall lay down the details of the organisation and operation of the competent authority or		

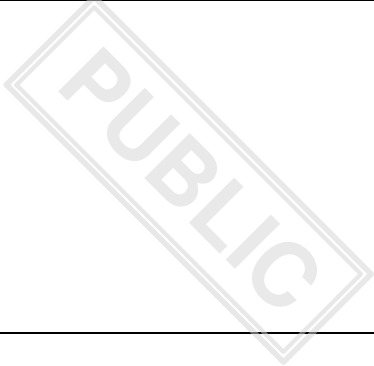
competent authorities, including administrative and procedural rules governing: (a) the registration of producers in accordance with Article 39; (b) the organisation and monitoring of reporting requirements under Article 39(7); (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40; (d) the making available of information in accordance with Article 50.		
3. By [OP: Please insert the date = ~~63~~ 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.		

<i>Article 36</i> <i>Early warning report</i>		
1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.		
2. The reports referred to in paragraph 1 shall include the following: (a) an estimation of the attainment of the targets by each Member State; (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;		

(c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.		
<i>Article 37 Waste management plans and waste prevention programmes</i>		
1. Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 43, 44 and 38 and, 4546 of this Regulation.		
1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste,		

including measures taken pursuant to Articles 38 and 45 of this Regulation.		
<i>Article 39 Register of producers</i>		
1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter. The register shall provide links to other national registers of producers' websites to facilitate, in all Member States, registration of producers or ~~appointed~~ authorised representatives for the extended producer responsibility.		
2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall, to that end, submit an application for registration in each Member State where they make packaging available on the market for the first time. Where a producer has appointed a producer responsibility		

organisation as referred to in Article 41(1), the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.		
3. The obligations set out in this Article may, on ~~the producer's behalf~~ , behalf of producers by written mandate , be met by an ~~appointed~~ authorised representative for the extended producer responsibility.		
4. Producers shall not make available packaging on the market, if they or, where applicable, their ~~appointed~~ authorised representatives for the extended producer responsibility, are not registered in such Member State.		

5. The application for registration shall include the information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents if it is necessary for an efficient use of the register.		
6. Where an ~~appointed~~ authorised representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the contact details of each one of the represented producers separately.		
7. The producer or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the register, <u>at the latest by 1 June 30 April</u> ~~1 March~~ for each		

full preceding calendar year, the information set out in Part B of Annex IX.		
7a. Producers, <u>or where applicable, the producer's authorised representative, who ~~are exempted from the obligation in paragraph 7 if they~~</u> fall under the definition of micro-enterprise in accordance with the Commission Recommendation 2003/361/EC as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation] <u>shall report to the competent authority responsible for the register, by 30 April, for each full preceding calendar year, the information set out in Part C of Annex IX .</u>		
8. The competent authority responsible for the register: (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website;		

(b) shall grant registrations and provide a registration number within a maximum period of ~~twelve weeks~~ <u>1-month twelve weeks</u> from the moment that all the information laid down in paragraphs 5 and 6 is provided; (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6; (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2; (e) shall receive and monitor the reporting referred to in paragraph 7.		
9. The producer, or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation of the making available on the market within the territory of the Member State of the packaging referred to in the registration. A producer shall be		

excluded from the register if the producer has ceased to exist as a producer.		
10. Member States shall ensure that the list of registered producers shall be publicly available <u>free of charge</u>. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. <u>The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use</u>. ~~Where the information in the register of producers is not publicly accessible, Member States shall ensure that providers of online platforms allowing consumers to conclude distance contracts with producers are granted access, free of charge, to the information in the register.~~		
11. The Commission shall, <u>by no later than three years after the entry into force of this Regulation</u> ~~<i>/OP: please insert the date X after the date of entry into force of this</i>~~		

~~Regulation~~, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the packaging types and material categories to be covered by the reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
<i>Article 40 Extended Producer Responsibility</i>		
1. Producers of packaging shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging that they make available on the market for the first time within the territory of a Member State.		

<u>1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the collection of packaging waste as referred to in Article 12.</u>		
2. A producer shall appoint, by written mandate, an ~~appointed~~ authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time.		
3. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, ~~P~~providers of online platforms, falling within the scope of Section 4 of Chapter 3 III of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers shall obtain the following information from producers offering packaging to consumers located in the Union:		

(a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located and the registration number(s) of the producer in that register; (b) a self-certification by the producer committing to only offer packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this article are complied with in the Member State where the consumer is located.		
<u>3a</u> <u>The provider of the online platform allowing consumers to conclude distance contracts with traders shall verify the information in paragraph 3 point (a) with the publicly available registration list referred to in Article 39(10), and where the provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 3 obtained from the trader concerned is inaccurate, incomplete or not up-to-date, the provider shall request the trader to remedy that situation without delay or within the period set by national law. Where the trader fails to correct or</u>		

<u>complete that information, the provider of the online platform shall swiftly suspend the provision of its service to that trader until the request has been fully complied with.</u>		
<i>Article 41 Producer Responsibility Organisation</i>		
1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.		
2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, the Member State shall ensure that the producer responsibility organisations <u>and producers that have not</u>		

<u>entrusted a producer responsibility organisation</u> , when taken together, cover the whole territory of the Member State as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.		
3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their ~~appointed~~ authorised representatives.		
4. In addition to the information referred to in Article 8a(3), point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every year ~~and subject to commercial and industrial confidentiality,~~ information on the amount of packaging made available on		

the market for the first time in the territory of a Member State and on the levels of recovered and recycled materials in relation to the amount of packaging for which they have been performing producer responsibility obligations.		
<i>Article 42 Authorisation on fulfilment of extended producer responsibility</i>		
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 State shall in its measures laying down administrative and procedural rules referred to in Article 35, establish the requirements and details of the authorisation procedure, which can be different for either individual or		

collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the information to be provided by producers or producers 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~~may be done by a competent authority or an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility organisations or the producers authorised for individual fulfilment.		
3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that: (a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with;		

(b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the return or collection in accordance with Article 43(1) and (2) and Article 44, free of charge for end users, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types 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, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf; (d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling; (e) the requirement laid down in paragraph 6 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 in particular if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or in relation to the notification of any changes that concern the terms of the authorisation, or has ceased operations.		
6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case		

of non-compliance with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. That guarantee may take the form of a recycling insurance or a blocked bank account or participation by the ~~producer~~ producer in the producer responsibility organisation. Member States may specify additional requirements on this guarantee.		
<u>Annex IX</u> <u>INFORMATION FOR REGISTRATION AND REPORTING TO THE REGISTER REFERRED TO IN ARTICLE 39</u>		
A. Information to be submitted upon registration		
1. The information to be submitted by the producer or its authorised representative for EPR shall include:		

(a) name and brand names (if available) under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, indicating a single contact point; (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number; (c) quantities by weight of types of packaging as set out in Table 1 of Annex II, that the producer makes available in the Member State for the first time; (d) a declaration on how the producer meets its responsibilities under Article 40.		
2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and e-mail address and the national identification code of the producer		

responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.		
3. In the case of an authorisation in accordance with Article 41(1), the producer responsibility organisation shall, in addition to the information required under point 1 of Part A of this Annex, provide: (a) the names and contact details, including postal codes and places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented; (b) the mandate of each represented producer, where applicable; (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the		

represented producers meets the responsibilities set out in Article 40.		
B. Information to be submitted for reporting		
(a) national identification code of the producer; (b) reporting period; (c) quantities by weight of packaging types as set out in Table 1 in Annex II that the producer makes available in the Member State for the first time; (d) quantities, by weight, per material of packaging waste separately collected within the Member State as set out in Table 1 in Annex II; (e) quantities, by weight, per material and type of packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII; (f) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single		

use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII;				PUBLIC	
(g) arrangements to ensure the producer responsibility regarding the waste from packaging placed on the market.					
<u>C. Information to be submitted for reporting for micro-enterprises</u>					
<u>a. national identification code of the producer;</u>					
<u>b. reporting period;</u>					
<u>c. information on packaging types set out in Table 1.</u>					
<u>d. arrangements to ensure the producer responsibility regarding packaging placed on the market</u>					
Table 1					
	Quantities by weight made available in member state	Quantities by weight collected	Quantities by weight recycled		

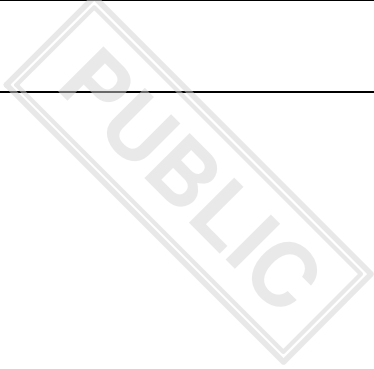
Glass				PUBLIC	
Plastic					
Paper/cardboard (including composite)					
Ferrous metal					
Aluminium					
Wood					
Other					
Total					
Deposit return systems and waste collection					
<i>Article 43 Return and collection systems</i>					
1. By 2030, Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year,</u> in					

order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>		
2. Member States may allow derogations from paragraph 1 provided that collecting packaging or fractions of packaging waste together or together with other waste does not affect the potential of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.		

3. The systems referred to in paragraph 1 shall: (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf; (b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities, and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas; (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		

4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.		
~~5. By way of derogation from the separate waste collection obligation in paragraph 3, certain types of packaging waste may be collected together where such collection does not affect their potential to undergo recycling operations and results in output from those operations which is of comparable quality to that achieved through separate collection.~~		
<i>Article 44 Deposit and return systems</i>		
1. By 1 January 2029, Member States shall take the necessary measures to ensure that deposit and return systems are set		

~~up for~~ the <u>separate</u> collection of at least 90% per year by weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year (a) single use plastic beverage bottles with the <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres; and (b) single use metal beverage containers with a <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres.		
2. In order to achieve the targets referred to in paragraph 1, Member States shall <u>take the necessary measures to ensure that establish</u> deposit return systems <u>are set up</u> for the relevant packaging formats referred to in paragraph 1. Such obligation ~~The obligation laid down in paragraph 1~~ does not apply to packaging for: (a) wine, aromatised wine products, and spirit drinks; (b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.		

3. ~~Without prejudice to paragraph 1 of this Article, a Member States~~ will ~~may~~ be exempted from the obligation under paragraph 12 under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as reported to the Commission under Article 50(1) point (c) is above 90 % by weight of such packaging ~~placed~~ made available on the market for the first time on the territory of that Member State in the calendar years 2026 and 2027. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of		

the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point (be) of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the		

Commission notified the Member State concerned that the exemption no longer applies.		
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, 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.		
7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article <u>and the possibility to include packaging for other products.</u>		

8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are not less convenient for end users than opportunities to return single-use packaging to a deposit and return system.		
9. By 1 January 2028, Member States shall ensure that all deposit and return systems, including those established under paragraph 5 <u>6</u>, meet the minimum criteria listed in Annex X.		
<u>9a. 48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, on deposit and return systems inter-operability, including examples of best-practices, for regions with high transboundary business.</u>		
<u>ANNEX X</u>		

<u>MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS</u>		
For the purpose of this Annex, the following definition shall apply: ‘system operator’ means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit and return system in a Member State.		
Minimum general requirements for deposit and return systems Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:		
(a) a single system operator is established or licenced. When deposit and return systems are established for specific packaging formats for reuse or single use, Member States may establish ~~more than one single~~ a different system operator <u>per system</u>;		
(b) the governance of the system allows for equal access and fair conditions of all economic operators wishing to become part of the		

system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;		
(c) control procedures and reporting systems are set up allowing the system operator to obtain data on the collection of packaging covered by the deposit and return system;		
(d) a minimum deposit level is established, which is sufficient to achieve the required collection rates; <u>(da) a minimum deposit to be charged at the point of sale,</u>		
(e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;		
(f) system operator is a non-profit and independent legal entity		
(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;		

(h) system operators coordinates the functioning of the deposit and return system;		
(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system; (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates;		
(j) a sufficient amount ~~at least 1%~~ of the ~~annual~~ turnover of the system operator (excluding deposits) are used for public awareness campaigns on the information on management of packaging waste;		
(k) system operators must provide any information requested by the competent authorities of a Member State, in which the system operates, for the purposes of monitoring compliance with the requirements in this Annex;		
(l) Member States shall ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with		

redeemed deposits. ~~When implementing this obligation, Member States shall take into account at least the following factors:~~	PUBLIC	
~~(i) sales surface area allowing end users to return deposit bearing packaging in their according to the local conditions;~~		
~~(ii) buying and selling habits and traditions;~~		
~~(iii) food safety;~~		
~~(iv) health and safety;~~		
~~(v) public health;~~		
~~(m) deposit is exempted from sales taxes;~~		
(n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;		
(o) all deposit bearing packaging is clearly labelled, so that the end users can easily identify the need to return such packaging;		
(p) fees are transparent;		
~~(q) all packaging covered by the deposit and return system.~~		

(r) In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.		
~~Member States with regions with high transboundary business shall ensure that the functioning of the DRS allows for the interoperability of DRS and that the implementation of the minimum requirements and of any additional requirements does not result in discrimination of business and consumers and market distortions.~~		
Member States are allowed to create exemptions from charging a deposit for a deposit bearing packaging in the context of consumption in hospitality premises provided that a deposit bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.		
<i>Article 46 Recycling targets and promotion of recycling</i>		

1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory:

- (a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated;
- (b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:
 - (i) 50 % of plastic;
 - (ii) 25 % of wood;
 - (iii) 70 % of ferrous metals;
 - (iv) 50 % of aluminium;
 - (v) 70 % of glass;
 - (vi) 75 % of paper and cardboard;
- (c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated;
- (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:
 - (i) 55 % of plastic;
 - (ii) 30 % of wood;
 - (iii) 80 % of ferrous metals;
 - (iv) 60 % of aluminium;



(v) 75 % of glass; (vi) 85 % of paper and cardboard.		
2. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following conditions: (a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets, (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %, (c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and (d) at the latest 24 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation		

plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
4. By <i>[OP: Please insert the date = 8 years after the date of entry into force of this Regulation]</i> , the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further		

targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.		
5. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by: (a) improving market conditions for such materials; (b) reviewing existing rules preventing the use of such materials.		
6. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum ~~targets~~<u>requirements</u> set out in this Article.		

<i>Article 47 Rules on the calculation of the attainment of the recycling targets</i>		
1. The calculation whether the targets laid down in Article 46(1) have been attained shall be carried out in accordance with the rules laid down in this Article.		
2. Member States shall calculate the weight of packaging waste generated in a given calendar year. The calculation of packaging waste generated in a Member State must be exhaustive.		
3. Member States shall calculate the weight of packaging waste recycled in a given calendar year. The weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations		

to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.		
4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.		
5. ~~Packaging waste exported out of the Union shall be calculated as recycled 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.		
6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first sub-paragraph of this ~~Article~~paragraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that: (a) such output waste is subsequently recycled; (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.		
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that		

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

9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as recycled.		
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.		

11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted as recycled by the Member State in which that packaging waste was collected.		
12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are broadly equivalent to the requirements of the relevant Union environmental law.		
<i>Article 48 Rules on the calculation of the attainment of the recycling targets by including re-use</i>		

1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging. The adjusted level shall be calculated by subtracting: (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in the first subparagraph in all sales packaging placed on the market, and (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market. No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.		

2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point (a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).		
<u>ANNEX XI</u> <u>IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO</u> <u>POINT (D) OF ARTICLE 46(2)</u>		
The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:		
(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;		

(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;		
(c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;		
(d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;		
(e) a timetable for the implementation of the measures identified in point 4(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;		

(f) information on funding for waste management in line with the polluter-pays principle;		
(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.		
<i>Article 50 Reporting to the Commission</i>		
1. Member States shall report to the Commission for each calendar year the following data: (a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging, (b) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category <u>as listed in table 5 of Annex XII</u>; (c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1), Member States may provide data on the annual consumption of very thick plastic carrier bags per person		

2. Member States shall report for ~~each packaging material and type as listed in Table 1 of Annex IX~~ for each calendar year data on: (a) the amounts of packaging made available ~~placed~~ on the market for the first time on the territory of that Member State for each packaging ~~type~~ category and material as listed in Table 1 of Annex ~~IX~~; (b) amounts of separately collected packaging waste for each packaging material as listed in Table ~~13~~ in the Annex ~~XII~~; (c) the recycling rates of packaging waste as listed in Table 4 of Annex XII; (d) installed capacities for sorting and recycling for each packaging type and material as listed in Table 1 of Annex II.		
3. The first reporting period shall concern: (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, the 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 1, point c, the calendar year starting from 1 January 2028.		

4. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in accordance with paragraph 7.		
5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the format established by the Commission in accordance with paragraph 7.		
6. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article 47(~~58~~) and (~~8~~<u>12</u>), including detailed information about the average loss rates where applicable.		

7. The Commission shall, by [<i>OP: Please insert the date = ~~24~~12 months after the date of entry into force of this Regulation</i>], adopt implementing acts establishing: (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting; (b) the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
8. Member States shall require that all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant,		

particular problems faced ~~bying~~ small and medium-sized enterprises with regard to the provision of detailed data.		
<i>Article 51 Packaging databases</i>		
1. By <i>[OP: Please insert the date = xx months after the date of entry into force of this Regulation]</i> , the Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis, to enable the reporting to the Commission.		
2. The databases referred to in paragraph 1 shall include the following: (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States; (b) ~~information on the toxicity or danger of packaging materials and components used for their manufacture;~~		

(c) the data listed in Annex XII.		
<u>ANNEX XII</u> <u>DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE</u> <u>(IN ACCORDANCE WITH TABLES 1 TO 4)</u>		
1. For sales, grouped and transport packaging: (a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1); (b) quantities reused (Table 2).		
2. For sales, grouped and transport packaging waste: (a) Quantities for separately collected packaging waste per material (Table 3) (b) Quantities recovered and disposed of, recycled and quantities recovered for each packaging type (Table 4).		

(c) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5) (d) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)						PUBLIC		
TABLE 1 Quantity of packaging (sales, grouped and transport) generated within the national territory								
	Tonnage produce d	- Tonnage exported	+ Tonnage imported	+ Tonnag e stored	= Total			
Glass								
Plastic								
Paper/ca rdboard (includin g composi te)								
Ferrous metal								

Aluminium							
Wood							
Other							
Total							
TABLE 2 Quantity of <u>total</u> sales packaging (sales, grouped and transport) reused within the national territory							
	Tonnage of packaging placed made available on the market for the first time on the territory of that Member State	Reusable packaging		Reusable sales packaging			
		tonnage	Percentage of total reusable packaging	Tonnage	Percentage of total reusable sales packaging		
Glass							
Plastic							
<u>including</u>							

g composi te							
Paper/ca rdboard (includin g composi te packagin g)							
Ferrous metal (includin g tinplate and composi te packagin g)							
Alumini um							
Wood							
Other							
total							

TABLE 3 <u>Quantity of generated packaging waste within the national territory and Quantity of separately collected packaging waste per material (sales, grouped and transport) generated within the national territory</u>				
Packaging material	Packaging waste generation (t)	From Packaging waste separately collected (t)		
Glass				
Plastic (rigid and flexible)				
Paper/cardboard (including composite)				
Metals (Ferrous metal and aluminium, including composite)				
Wood				
Other				
Total				

							PUBLIC		
TABLE 4									
Quantity of packaging waste recovered and disposed of within the national territory <u>and exported</u>									
Packaging		Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered		
					Tonnage	Percentage	Tonnage	Percentage	
Within the national territory									
Glass, including composite									

Plastic, PET	Rigid									PUBLIC	
Plastic, PP											
Packaging		Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered				
					Tonnage	Percentage	Tonnage	Percentage			
Plastic, HD PE and PP											
Plastic, PS											

Plas tic, HD PE										PUBLIC	
Plas tic, PV C											
Plas tic, PC											
Plas tic, EPS											
Plas tic, XP S											
Plas tic, PET	Flex ible										
Packaging	Tot al ton nag e dis pose d of outs ide nati ona l	Tot al ton nag e dis pose d of	Tot al tonn age reco vere d and dis pose d of	Quantity recycled		Quantity recovered					
				Ton nag e	Perc enta ge	Ton nag e	Perc enta ge				

PUBLIC

		territory								PUBLIC	
Plastic, PP											
Plastic, PE											
Plastic, multilayer											
Paper/cardboard (non-composite)											
Composite Paper/cardboard											
Ferrous metal (including tinplate and composite packaging of which the											

Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered		
				Tonnage	Percentage	Tonnage	Percentage	
majority is steel)								
Aluminium (including composite packaging of which the majority is aluminium)								
Wood								
Textile								
Ceramic, porcelain or stoneware								

PUBLIC

Other									PUBLIC		
Total packaging											
Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered					
				Tonnage	Percentage	Tonnage	Percentage				
waste											
Table 5 Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick plastic carrier bags per person, consumed within the national territory											

	Plastic carrier bags consumed within the national territory		PUBLIC	
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>	Number per person	Tonnes per person		
lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>				
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>				
Table 6 Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)				
	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)		

Single use plastic beverage bottles with the capacity of up to 3 litres			PUBLIC	
Single use metal beverage containers with a capacity of up to 3 litres				
Cluster 8 Remaining obligations of economic operators				
Recitals corresponding cluster 8				
(39) It should be recalled that all ~~compostable packaging constituting a food contact material~~ is packaging in contact with food, including compostable packaging, has to meet the requirements ~~set out in~~ <u>under the scope of set out in</u> Regulation (EC) No 1935/2004 on materials and articles intended to <u>be brought come</u> into contact with food <u>or already in contact with food</u>. Where appropriate, the documentation and information required according to the legislation on food contact				

materials can also be used as part of the information and documentation required in this Regulation.		
(51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.		
(51a) 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 provides common principles and reference provisions for the drawing up of legislation harmonising the conditions for the marketing of products. In order to ensure consistency with other sectoral product legislation and to simplify application and enforcement, this regulation should be aligned to that Decision, unless		

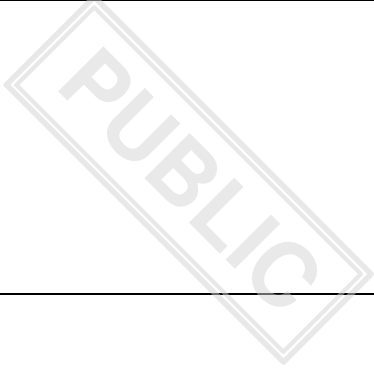
specific circumstances require a different solution <u>in this Regulation</u>. Therefore, ~~the current Regulation should have recourse to that~~ Decision <u>768/2008/EC should be used</u> as regards certain definitions, general obligations of economic operators, presumption of conformity, ~~provisions regarding~~ formal objections against harmonised standards, ~~and~~ notification procedures, and the provisions concerning procedures dealing with products presenting a risk, <u>when not otherwise specified in this Regulation</u>.		
(52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should therefore remain solely the obligation of the manufacturer.		
(53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the		

information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market <u>complies</u> with this Regulation, whether imported as ~~self-standing~~ <u>standalone</u> packaging or ~~in~~ <u>as part of in association with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		

(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those		

authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		

Definitions article 3 corresponding :		
(6) 'making available on the market' means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;		
(7) 'placing on the market' means the first making available of a packaging on the Union market;		
(8) 'economic operator' means manufacturers, suppliers of packaging, importers, distributors, authorised representative , final distributors, and fulfilment service providers;		
(9) 'manufacturer' means any natural or legal person who manufactures packaging under its own name or trademark,		

or has packaging designed or manufactured <u>under its own name or trademark</u> ~~and uses that packaging for the containment, protection, handling, delivery or presentation of products under its own name or trademark, without it having been placed on the market previously;~~		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for</u>		

<u>the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		
(11) ‘supplier’ 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 or presentation of products under its own name or trademark;~~		

(12) 'importer' means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;		
(13) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;		
(14) 'authorised representative' means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer's obligations under this Regulation;		

<i>Article 13 Obligations of manufacturers</i>		
1. When placing packaging on the market, manufacturers shall ensure that the packaging complies with the following: (a) it has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; (b) it 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 VII. Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.		

		Is there a explanation why reusable packaging information have to be kept 10 years after reusable packaging has been placed on the market?
3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10~~ 5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market.</u>		
4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may be affected, they shall carry out a re-assessment in accordance with the		

conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.		
5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.		
6. Manufacturers shall indicate on the packaging or on a QR code or another data carrier their name, registered trade name or registered trade mark as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code or other type of digital data carrier referred to in Article 11(2) or the data carrier referred to in Article 11(4) or in a document accompanying		

the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.		
7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market 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.		

9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or~~ electronic form and, on request, in paper form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.		
<i>Article 14 Information obligations of suppliers of packaging or packaging materials</i>		

10. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.		
11. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.		
<i>Article 15 Obligations of authorised representative</i>		
1. A manufacturer may, by a written mandate, appoint an authorised representative.		

The obligations laid down in Article 13(1) and the obligation to draw up technical documentation referred to in Annex VII and required under Articles 5 to 10 shall not form part of the authorised representative's mandate.		
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following: (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~10~~ 5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market;</u> (b) cooperate with the national authorities, at their request, on any measures taken with regard to non-compliances of the packaging covered by the authorised representative's mandate; (c) further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of		

packaging in a language or languages, which can be easily understood by that authority; (d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request; (e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.		
<i>Article 16 Obligations of importers</i>		
1. Importers shall only place on the market packaging which is compliant with the requirements of Articles 5 to 11.		
2. Before placing packaging on the market, importers shall ensure the following:		

(a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer; (b) the packaging is labelled in accordance with Article 11, (c) the packaging is accompanied by the required documents; (d) the manufacturer has complied with the requirements set out in Article 13(5) and (6). Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.		
3. Importers shall indicate on the packaging their name and their registered trade name or registered trade mark as well as the postal address, and, where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided via the data carrier or in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.		

4. Importers shall ensure that information provided in accordance with paragraph 3 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
5. Importers shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.		
6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.		

7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
8. Importers shall, for ~~40~~ 5 years after ~~the single-use~~ packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market,</u> keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.		
9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided ~~either in paper or~~ in electronic		

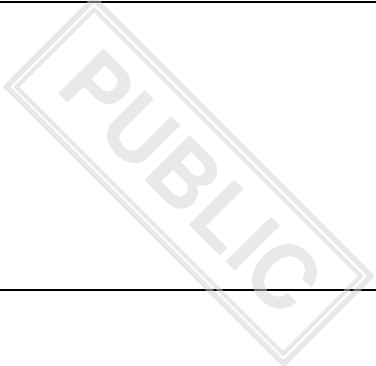
form and, on request, in paper form . The relevant documents shall be made available within 10 days of receipt of the request from the national authority.		
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 17 Obligations of distributors</i>		
1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.		
2. Before making packaging available on the market, distributors shall verify the following:		

(a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the register of producers referred to in Article 4039; (b) the packaging is labelled in accordance with Article 11; (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.		
3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer or importer is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or until the manufacturer complies. Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.		

4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken. Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~paper or~~ electronic form and, on request, in paper form.		

Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 18 Obligations of fulfilment service providers</i>		
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.		
<i>Article 19 Case in which obligations of manufacturers apply to importers and distributors</i>		
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 134, where they place packaging		

on the market under their own name or trademark or modify packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation		
<i>Article 20 Identification of economic operators</i>		
1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following: (a) the identity of any economic operator that has supplied them with packaging; (b) the identity of any economic operator to which they have supplied packaging.		
2. Economic operators shall be able to provide the information referred to in paragraph 1(a) for ~~10~~ 5 years after they have been supplied with the single-use packaging and ~~for~~ 10 years after they have been supplied a reusable packaging.		

<u>Economic operators shall be able to provide the information referred to in paragraph 1(b) 5 years after they have supplied the single-use packaging and for 10 years after they have supplied the reusable packaging.</u>		
<i>Article 49 Information on prevention and management of packaging waste</i>		
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 41(1), producer responsibility organisations shall make available to end-users, in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State:		

(a) the role of end-users in contributing to waste prevention, including any best practices; (b) re-use arrangements available for packaging; (c) the role of end-users in contributing to the separate collection of packaging waste materials, including handling of packaging containing hazardous products or waste; (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product; (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single-use packaging, in particular plastic carrier bags; (f) the composting properties and appropriate waste management options for compostable packaging. <u>Consumers shall be informed that compostable packaging is compostable in industrially controlled conditions and should not be thrown in home compost or nature.</u>		

Obligations under paragraph 1(d) shall be applicable as of <i>[OP: Please insert the date = 42 months after the entry into force of this Regulation]</i> or the date of application of Article 11, whichever is the latest.		
2. The information referred to in paragraph 1 shall be up to date and provided by means of: (a) a website or other means of electronic communication; (b) public information; (c) education programmes and campaigns; (d) signposting in a language, or languages, which can be easily understood by users and consumers.		
3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		

Cluster 9 Conformity		
Recitals corresponding cluster 9		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market comply<u>ies</u> with this Regulation, whether imported as ~~self-standing~~ <u>standalone</u> packaging or ~~in~~ <u>as part of in association</u> <u>with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		

(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate		

actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		

<i>Article 30 Test, measurement and calculation methods</i>		
For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, ~~and 21~~ and 29 24 of this Regulation, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.		
<i>Article 31 Presumption of conformity</i>		
1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been published in the <i>Official Journal of the European Union</i> , shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.		

2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Articles 5 to 11 and 24.		
<i>Article 32 Common ~~technical~~ <u>technical</u> specifications</i>		
1. Packaging which is in conformity with common technical specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 24 to the extent that those requirements are covered by those common technical specifications or parts thereof.		

2. The Commission may, by means of implementing acts, establish common technical specifications for the requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled: (a) there is no harmonised standard covering the relevant requirements the reference of which is published in the <i>Official Journal of the European Union</i> or the standard does not satisfy the requirements it aims to cover; and (b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled: (i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed; (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the standards requested:		

• are not adopted within the deadline set in the request; • do not comply with the request; or • are not fully in line with the requirements they aim to cover. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>2a. Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.</u>		
3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard ~~are~~ published in the <i>Official Journal of the European Union</i>, the Commission shall assess whether implementing acts referred to in paragraph 2, or parts thereof		

which cover the same requirements set out in Articles 5 to 11 and Article 24 need to be repealed or amended.		
<u>3a. When a Member State considers that a common specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.</u>		
<i>Article 33 Conformity assessment procedure</i>		
Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.		

<i>Article 34 EU declaration of conformity</i>		
1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.		
2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed on the market or made available on the market.		

3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall, where appropriate, be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.		
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.		

<u>ANNEX VII</u> <u>CONFORMITY ASSESSMENT PROCEDURE</u>		
Module A Internal production control		
1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 5 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to 10 of this Regulation that apply to them.		
2. Technical documentation The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the		

design, manufacture and operation of the packaging. The technical documentation shall contain, wherever applicable, at least the following elements: (a) a general description of the packaging and of its intended use, (b) conceptual design, and manufacturing drawings and materials schemes of components, etc. (a) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging, (b) a list of: (i) the harmonised standards, referred to in Article 31, applied in full or in part (ii) the common technical specifications, referred to in Article 32, applied in full or in part (iii) other relevant technical specifications used for measurement or calculation purposes, (iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied,		

(iv) in the event of harmonised standards and/or common technical specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1. (c) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and, (d) test reports.		
3. Manufacturing The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.		
4. Declaration of conformity The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10		

years after the packaging has been placed on the market. The declaration of conformity shall identify the packaging for which it has been drawn up. A copy of the declaration of conformity shall be made available to the relevant authorities upon request.	PUBLIC	
5. Authorised representative The manufacturer's obligations set out in point 4 as regards keeping of the technical documentation may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.		
<u>ANNEX VIII</u> <u>EU DECLARATION OF CONFORMITY NO* ...</u>		
1. No.... (unique identification of the packaging):		

2. Name and address of the manufacturer and, where applicable, its authorised representative.		
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.		
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.		
5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).		

6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.		
7. ~~The~~ Where applicable, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).		
8. Additional information Signed for and on behalf of: (place and date of issue): (name, function) (signature) * (identification number of the declaration)		

<i>Cluster 10 Safeguard procedures</i>		
Recitals corresponding cluster 10		
(83) Regulation (EC) No 765/2008 of the European Parliament and of the Council^[1] 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. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		

(123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 of the European Parliament and of the Council^[1] setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation. The market surveillance mechanisms laid down by Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		

(124) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.		
(131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS) and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market		

surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to identify packaging that may correspond to such a prohibition measure. The electronic ~~Electronic System~~ Customs Risk Management Control System (CRMS) set out in Article 36 of Commission Regulation (EU) 2447/2015, without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.		

(132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for that interconnection.		
(133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as		

Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical information, including relevant international standards.		
<i>Article 52 Procedure for dealing with packaging presenting a risk at national level</i>		
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 requirements laid down in this Regulation that are relevant to the risk. The relevant economic operators shall cooperate as necessary with the market surveillance authorities. Where, in the course of that evaluation, the market surveillance authorities find that the packaging does not comply with the		

requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective measures, within a reasonable period prescribed by the market surveillance authorities which is commensurate with the nature and, where relevant the degree of the non-compliance, to bring the packaging in compliance with those requirements.		
2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		

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

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.		
6. The information to the Commission and the other Member States referred to in paragraph 5 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 and, where applicable, the information referred to in Article 55 4—(1). The market surveillance authorities shall also indicate whether the non-compliance is due to either of the following: (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation;		

(b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.		
7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the adopted national measure, of their objections.		
8. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Provisional measures may provide for a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.		

9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.		
<i>Article 53 Union safeguard procedure</i>		
1. Where, on completion of the procedure set out in Article 52(3) (5) and (6) (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 by means of an implementing act whether the national measure is justified or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.		
3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.		

4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.		
<i>Article 54 Compliant packaging which presents a risk</i>		
1. Where, having carried out an evaluation under Article 52, a Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of risk, to ensure that the packaging concerned, when placed on the market, no longer presents that risk, ~~to withdraw the packaging from the market or to recall it.~~		

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		
4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the		

packaging, the nature of the risk involved and the nature and duration of the national measures taken.		
5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, propose appropriate measures. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3). On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 589(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.		

<i>Article 55 Controls on packaging entering the Union market</i>		
1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article 52(5) (4)—of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the non-compliant packaging to which the measures apply and, in case of packaged product, the product itself. 1a. The authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.		

2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.		
3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article 52(56) to the environment referred to in paragraph 2 3. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 4 5.		
4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the implementation arrangements for paragraph 3 4- including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 4. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).		

<i>Article 56 Formal non-compliance</i>		
1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned: (a) the EU declaration of conformity has not been drawn up (b) the EU declaration of conformity has not been drawn up correctly; (c) the QR code or data carrier referred to in Article 11 do not provide access to the required information in accordance with that Article; (d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors; (e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete; (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled;		

(g) the requirements on restrictions on uses of certain packaging formats and on excessive packaging set out in Articles 21 and 22 are not complied with; (h) in relation to reusable packaging, the requirements on the establishment, operation and participation in a system for re-use referred to in Article 24 are not fulfilled; (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled; (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled; (k) the re-use and refill targets in Article 26 are not achieved.		
2. Where the non-compliance referred to in paragraph 1, points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made available on the market or ensure that it is recalled or withdrawn from the market. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties		

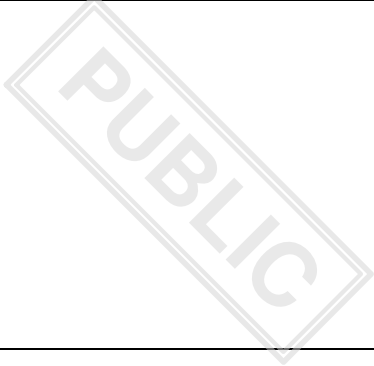
applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.		
Cluster 11 Final Chapters		
Recitals corresponding cluster 11		
(134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ~~the requirements~~ related to the ~~plastic~~ recycled plastic content for plastic beverage bottles as of 1 January 2030 should be deleted from Directive (EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted. <u>~~As this Regulation does not regulate the recycled content in the plastic part in packaging before 1~~</u>		

<u>January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact.</u> Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, <u>unless specifically provided otherwise in this Regulation.</u> <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing</u>		

restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation



<u>should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<u>(134bis) As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		
(135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability requirements, the economic operators placing non-compliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective,		

proportionate and dissuasive penalties in national law for failure to comply with this Regulation.		
(136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.		
(137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the		

administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.		
(138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC should therefore be repealed.		
(139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this ~~Directive~~ Regulation should be deferred.		

(140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application of the system of own resources of the Union with regard to the own resource based on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.		
(141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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.		
<i>Article 58 Exercise of the delegation</i>		
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of ~~ten~~ five years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end		

of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period.	PUBLIC	
3. The delegation of power referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force		
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in		

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

period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 59 Committee procedure</i>		
1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ~~Where the~~		

~~committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 72, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.~~ <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 55, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.</u>		
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 of that Regulation, shall apply.		

Article 60 Amendments to Regulation (EU) 2019/1020		
Regulation (EU) 2019/1020 is amended as follows: (a) Annex I is amended as follows: (i) point 9 is deleted; (ii) the following points are added: 'X [OP Please insert the next consecutive number] Directive (EU) 2019/904 of the European ~~Parelimant~~ Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1); ~~'X [OP Please insert the next consecutive number] Regulation (EU) .../... on packaging and packaging waste, amending Regulation (EU) 2019/1020, and repealing Directive 94/62/EC [for the Publications Office to fill in the OJ publication details].~~ (b) in Annex II, point 8 is deleted.		

<i>Article 61</i> <i>Amendments to Directive (EU) 2019/904</i>		
Directive (EU) 2019/904 is amended as follows: <u>(aa) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’</u> <u>Article 22(4a) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards single use plastic packaging listed in Annex V point 3.</u> <u>[Article 26(2) and (3) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u> <u>[Article 45(4) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u>		

(a) in Article 6(5), points (a) and point (b), is are deleted as of 1 January 2030; (b) in Article 13(1), point (e), is deleted as of 1 January 2030; (c) Article 13(3) is be replaced by ‘3. The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’		
<i>Article 62 Penalties</i>		
1. By [<i>OP: Please insert the date = 24 months after the date of entry into force of this Regulation</i>], 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 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator.~~		
2. Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator. Where the legal system of the Member State does not provide for administrative fines, the first paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have equivalent effect to the administrative fines referred to in that paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.		

3. Member States shall, by [<i>OP: please insert the date = 1 year after the date of entry into force of this Regulation</i>], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 63 Evaluation</i>		
By [<i>OP: Please insert the date = 8 years after the date of application of this Regulation</i>], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of packaging. The Commission shall present a report on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the		

Commission with the information necessary for the preparation of that report.		
<i>Article 64 Repeal and transitional provisions</i>		
Directive 94/62/EC is repealed with effect from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. However, the following transitional provisions shall apply: (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = 42 months after the date of entry into force of this Regulation]; (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 36 months after the data entry into force of this Regulation]; (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last		

day of the ~~same~~ calendar year ~~following~~ in which the period of 36 months after the date of entry into force ends of this Regulation], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months after the date entry into force of this Regulation]. <u>(ca) Commission Decision 2001/171/EC and Commission Decision 2009/292/EC shall remain into force and continue to apply until repealed by delegated acts adopted by the Commission adopted pursuant to Article 5(5a) of this Regulation.</u> References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.		
<i>Article 65 Entry into force and application</i>		

This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States.		PUBLIC	
ANNEX XIII CORRELATION TABLE			
Directive 94/62/EC	This Regulation		
Article 1(1)	Article 1(1-2)		
Article 1(2)	Article 1(3)		
Article 2(1)	Article 2(1)		
Article 2(2)	Article 2(2)		
Article 3(1), first subparagraph	Article 3(1)		
Article 3(1), second subparagraph, point (a)	Article 3(2)		
Article 3(1), second subparagraph, (b)	Article 3(3)		
Article 3(1), second subparagraph, point (c)	Article 3(4)		
Article 3(1), third subparagraph, point (i)	Article 3(1)(a)		
Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)		

Article 3(1), third subparagraph, point (iii)	Article 3(1)(b-c)	PUBLIC	
Article 3(1a)	Article 3(43)		
Article 3(1b)	Article 3(44)		
Article 3(1c)	Article 3(45)		
Article 3(1d)	Article 3(46)		
Article 3(1e)	---		
Article 3(2)	Article 3(20)		
Article 3(2a)	Article 10(1)		
Article 3(2b)	Article 3(19)		
Article 3(2c)	Article 3(60) and fourth subparagraph of Article 3		
Article 3(11)	Article 3(8)		
Article 3(12)	---		
Article 4(1), first subparagraph	Article 38(2)		
Article 4(1), second subparagraph	---		
Article 4(1), third subparagraph	Article 38(3)		
Article 4(1a), first subparagraph	Article 29(1), first subparagraph		
Article 4(1a), second subparagraph	Article 29(2), second sentence		
Article 4(1a), third subparagraph	Article 29(2), first sentence		
Article 4(1a), fourth subparagraph, point (a)	Article 29(1), second subparagraph		
Article 4(1a), fourth subparagraph, point (b)	Article 29(4)		
Article 4(1a), fifth subparagraph	Article 50(1), point (b)		

Article 4(1a), sixth subparagraph	Article 50(7), point (b)		
Article 4(1b)	Article 29(3)		
Article 4(1c)	---		
Article 4(2)	---		
Article 5(1)	Article 45(1)		
Article 5(1)(a)	Article 45(2), point (a)		
Article 5(1)(b)	Article 26(1-10)		
Article 5(1)(c)	Article 45(2), point (b)		
Article 5(1)(d)	Article 45(2) point (c)		
Article 5(2), first subparagraph	Article 48(1), first subparagraph		
Article 5(2), second subparagraph, point (a)	Article 48(1), second subparagraph, point (a)		
Article 5(2), second subparagraph, point (b)	Article 48(1), second subparagraph, point (b)		
Article 5(2), third subparagraph	Article 48(1), third subparagraph		
Article 5(3)	Article 48(2)		
Article 5(4)	Article 50(7), point (a)		
Article 5(5)	---		
Article 6(1)(a)	---		
Article 6(1)(b)	---		
Article 6(1)(c)	---		
Article 6(1)(d)	---		
Article 6(1)(e)(i)	---		
Article 6(1)(e)(ii)	---		
Article 6(1)(e)(iii)	---		
Article 6(1)(e)(iv)	---		
Article 6(1)(e)(v)	---		
Article 6(1)(f)	Article 46(1)(a)		

Article 6(1)(g)(i)	Article 46(1)(b)(i)	PUBLIC	
Article 6(1)(g)(ii)	Article 46(1)(b)(ii)		
Article 6(1)(g)(iii)	Article 46(1)(b)(iii)		
Article 6(1)(g)(iv)	Article 46(1)(b)(iv)		
Article 6(1)(g)(v)	Article 46(1)(b)(v)		
Article 6(1)(g)(vi)	Article 46(1)(b)(vi)		
Article 6(1)(h)	Article 46(1)(c)		
Article 6(1)(i)(i)	Article 46(1)(d)(i)		
Article 6(1)(i)(ii)	Article 46(1)(d)(ii)		
Article 6(1)(i)(iii)	Article 46(1)(d)(iii)		
Article 6(1)(i)(iv)	Article 46(1)(d)(iv)		
Article 6(1)(i)(v)	Article 46(1)(d)(v)		
Article 6(1)(i)(vi)	Article 46(1)(d)(vi)		
Article 6(1a)(a)	Article 46(2)(a)		
Article 6(1a)(b)	Article 46(2)(b)		
Article 6(1a)(c)	Article 46(2)(c)		
Article 6(1a)(d)	Article 46(2)(d)		
Article 6(1b)	Article 46(3)		
Article 6(1c)	Article 46(4)		
Article 6(4)(a)	Article 46(5)(a)		
Article 6(4)(b)	Article 46(5)(b)		
Article 6(6)	Article 49(2)		
Article 6(7)	---		
Article 6(10)	Article 46(6)		
Article 6(11)	---		
Article 6a(1)(a)	Article 47(2)		
Article 6a(1)(b)	Article 47(3)		
Article 6a(2)	Article 47(6)		
Article 6a(2)(a)	Article 47(6)(a)		
Article 6a(2)(b)	Article 47(6)(b)		

Article 6a(3)	Article 47(7)	PUBLIC	
Article 6a(4)	Article 47(8)		
Article 6a(5)	Article 47(9)		
Article 6a(6)	Article 47(10)		
Article 6a(7)	Article 47(11)		
Article 6a(8)	Article 47(12)		
Article 6a(9)	Article 50(7), point (a)		
Article 6b	Article 36		
Article 7(1)	Article 43(1) and (2)		
Article 7(2)	Articles 39-42		
Article 7(3)	Article 43(3)		
Article 7(4)	Article 43(4)		
Article 8(1)	Article 11		
Article 8(2)	Article 11(1)		
Article 8(3)	Article 11(4)		
Article 8a	Article 11(1) and (5)		
Article 9(1)	Articles 5-10		
Article 9(2)(a)	Article 31		
Article 9(2)(b)	---		
Article 9(3)	---		
Article 9(4)	---		
Article 9(5)	---		
Article 10	Article 31(2)		
Article 11(1)	Article 5(2)		
Article 11(2)	---		
Article 11(3)	Article 5(5)		
Article 12(1)	Article 51(1)		
Article 12(2)	Article 51(2)		
Article 12(3a)	Articles 50(1) point (a), 50(3) point (a) and 50(4)		

Article 12(3b)	Article 50(5) and 50(6)	PUBLIC	
Article 12(3c)	-		
Article 12(3d)	Article 50(7)		
Article 12(4)	Article 50(8)		
Article 12(6)	Article 50(8)		
Article 13, first subparagraph	Article 49(1)		
Article 13, second subparagraph	---		
Article 14	Article 37		
Article 15	Article 29, Article 38, Article 45		
Article 16(1)	---		
Article 16(2)	---		
Article 18	Article 4		
Article 19(1)	---		
Article 19(2)	---		
Article 20	---		
Article 20a(1)	---		
Article 20a(2)	---		
Article 20a(3)	---		
Article 21(1)	Article 59(1)		
Article 21(2), first subparagraph	Article 59(3), first subparagraph		
Article 21(2), second subparagraph	Article 59(3), second subparagraph		
Article 21a(1)	Article 58(1)		
Article 21a(2)	Article 58(2)		
Article 21a(3)	Article 58(3)		
Article 21a(4)	Article 58(4)		
Article 21a(5)	Article 58(5)		
Article 21a(6)	Article 58(6)		

Article 22(1)	---	PUBLIC	
Article 22(2)	---		
Article 22(3)	---		
Article 22(3a), first subparagraph	---		
Article 22(3a), second subparagraph, point (a)	---		
Article 22(3a), second subparagraph, point (b)	---		
Article 22(3a), second subparagraph, point (c)	---		
Article 22(3a), second subparagraph, point (d)	---		
Article 22(3a), second subparagraph, point (e)	---		
Article 22(3a), second subparagraph, point (f)	---		
Article 22(4)	---		
Article 22(5)	---		
Article 23	---		
Article 24	---		
Article 25	---		
Annex I	Annex I		
Annex II, point 1	Articles 5, 6, 9 and 10 and Annexes II and IV		
Annex II, point 2	Article 10 and Annex IV		
Annex II, point 3(a)	Article 6 and Annex II		
Annex II, point 3(b)	---		
Annex II, point 3(c)	Articles 8 and 3(41) and Annex III		
Annex II, point 3(d)	Articles 8 and 3(41) and Annex II		

Annex III	Annex XII		
Annex IV	Annex XI		

PUBLIC

Deadline: 31.07.23

HU COMMENTS

Formatted: Underline

ANNEX I – PART 2 OF THE TEXT REV01. CLUSTER 2, 4 AND 5.

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 2,4 and 5 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 2 – Labelling, marking and information requirements		
<i>Recitals corresponding cluster 2:</i>		
(44) It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles.		
(45) To facilitate consumers ~~in the~~ sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. It is only specifically home-compostable packaging which is suitable for home-composting. This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.		

Deadline: 31.07.23

(46)	Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.	
(47)	In order to inform end-users about reusability, availability of systems for re-use and location of collection points as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code <u>may contain information which should also</u> facilitates tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale.	
(48)	There should be no multiplication of labels on packaging.	

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

In order to avoid this, where other Union legislation requires information on the packaged product to be available digitally through a data carrier, the information required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. <u>Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable promoting circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging</u>		

<u>circularity.</u>		
(49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It should be possible to identify packaging included in the extended producer responsibility scheme by means of an accreditation symbol throughout the territory of that system. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging. To this end, it could be considered that the Green Dot symbol, which is used in some Member States to signify that a producer has made a financial contribution to a national packaging recovery system¹, could mislead consumers to believe that packaging bearing such a symbol is always recyclable. ¹ https://www.pro-e.org/the-green-dot-trademark		

<u>(49a) Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>		
<u>(49ab)</u> [Placeholder: Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between the provisions of the Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the		

green transition through better protection against unfair practices and better information, provides that displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]		
(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of <u>standardised, open,</u> digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should <u>keep linguistic elements to a minimum and</u> take into account scientific or other available technical information, including relevant international standards. The labelling of packaging subject to <u>a harmonised deposit and return system</u> should be designed with consideration <u>given to the different countries' currency deposit system</u> variation in the deposit being charged, which may exist between Member States. In		

view of the new system, Commission Decision 97/129/EC ² should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.		
<i>Article 11 Labelling of packaging</i>		
1. From <u>42 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest, ~~[OP: Please insert the date – 42 months after the entry into force of this Regulation]~~</u> packaging <u>packaging placed on the market</u> shall be marked with a label containing information on its material composition <u>and including for the packaging referred to in Article 8(1) and (2), that the material is compostable.</u> This obligation does not apply to transport packaging. However, it applies to e-commerce packaging. Packaging subject to deposit and return systems referred to in Article 44(1) shall, <u>in addition to the labelling referred to in the first subparagraph,</u> be marked with a harmonised label established		

² 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).

in the relevant implementing act adopted pursuant to paragraph 5.		
2. Reusable packaging placed on the market ~~from 48 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest~~ <i>[OP: Please insert the date = 48 months after the date of entry into force of this Regulation]</i>, packaging shall bear a label informing ~~that it the packaging is reusable on packaging reusability~~ and a QR code or other type of ~~standardized, open,~~ digital data carrier that provides further information on packaging reusability including the availability of a ~~local, national or EU-wide~~ system for re-use and ~~of information on~~ collection points, and that facilitates the tracking of 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 ~~If~~ a unit of packaging ~~is covered by Article 7~~ placed on the market from 42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest ~~<i>[OP: Please insert the date = xx months after the entry into</i>~~		

~~force of this Regulation~~, and is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).		
4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly ~~and indelibly~~ on the packaging, and the information shall be available to end users before the purchase of the product in distance sales when the product is sold online. ~~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.~~ The information contained in the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made		

available on the market. Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.		
5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 ~~and the labelling of waste receptacles referred to in Article 12.~~ <u>The Commission shall take into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States² different currencies and deposits system.</u> ~~The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~ Those implementing acts		

Formatted: English (United Kingdom)

shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
6. By <i>[OP: Please insert the date = 24 months after the date of entry into force of this Regulation]</i> , the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</u> <u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>		
7. Without prejudice to requirements concerning other harmonised EU labels, economic operators shall not provide or display labels,		

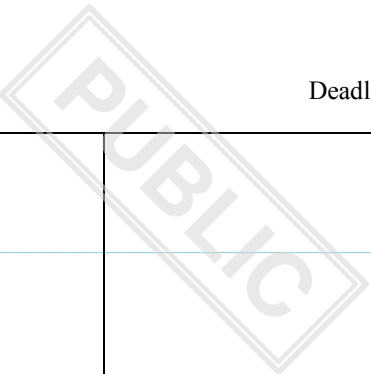
marks, symbols or inscriptions, that are likely to mislead or confuse consumers or other end users with respect to the sustainability requirements for packaging, other packaging characteristics or packaging waste management options, for which harmonised labelling has been laid down in this Regulation.		
8. Packaging included in an extended producer responsibility scheme ~~or covered by a deposit and return system other than that referred to in Article 44(1)~~ may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.		
<u>8a. Packaging covered by a deposit and return system referred to in Article 44(1) shall be labelled with the harmonised label in accordance with paragraph 1. These packaging may, in addition, by virtue of national law and on the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States, be identified by means of a corresponding symbol throughout the territory</u>		

<u>in which that scheme or system applies. Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. The symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</u>		
<i>Article 12 Labelling of waste receptacles for the collection of packaging waste</i>		
1a. By 1 January 2028, ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, 42 months after the entry into force of this Regulation, or 24 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest, Member States shall ensure that labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles shall be ~~are~~ affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. A receptacle for packaging waste may bear more than one label. This obligation does not apply to receptacles covered		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

by a deposit and return system.		
Cluster 4 Waste prevention		
<i>Recitals corresponding cluster 4:</i>		
(10a) <u>Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are not designed and intended to be filled at the point of sale. Only when these items are designed and intended to be filled at the point of sale or offered for sale pre-filled, they should be considered packaging, provided that they perform a packaging function.</u>		
(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions. 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 13428:2000^[1], should therefore be modified. 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 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. 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. ^[1] Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction.		

Field Code Changed

Formatted: English (United Kingdom)

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Deadline: 31.07.23

Formatted: English (United Kingdom)

(41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space in, grouped and transport packaging, including e-commerce packaging.		
(42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and specify measurable design criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.		
(60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space		

ratio~~n~~ should be set on economic operators who fill the packaging and in terms of reducing the empty space when for the using of such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or end user, the empty space ratio~~n~~ should not exceed 40 %. In line with the waste hierarchy and to promote packaging innovation with the aim of packaging waste reduction, it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation.		
(61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and food hygiene, and facilitate the achievement of the packaging waste prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission ~~to amend the list~~. <u>The Commission will publish guidelines explaining in more detail Annex V, including examples of the packaging and guidance as</u>		

<u>regards the exemptions.</u>		
(72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council^[1]. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements.		
^[1] 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		

Field Code Changed

Field Code Changed

Deadline: 31.07.23

of lightweight plastic carrier bags (OJ L 115, 6.5.2015, p. 11).		
(73) In view of the results of the evaluation study on plastic carrier bags ^[1] , 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.		
^[1] 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) <u>To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory,</u> ~~The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory~~ <u>may adopt measures which</u> include banning these types of plastic carrier bags, ~~the use of~~ implementation of national reduction targets, maintaining or introducing economic instruments as well as other marketing restrictions, provided that these ~~restrictions~~ measures are proportionate and non-discriminatory.		

Field Code Changed

Field Code Changed

Formatted: English (United Kingdom)

Deadline: 31.07.23

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.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline.		

Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in		

the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~Certain~~ single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (~~e.g. i.e.~~ plastic carrier bags, beverages cups, food and beverage containers, including bottles) ~~with the main purpose of that Directive being to prevent littering and its environmental impact~~. Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, ~~unless specifically provided otherwise in this Regulation~~. <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should</u>		We support the clarification of the overlaps between the SUP Directive and the PPWR.

Formatted: English (United Kingdom)

<u>apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.</u> <u>Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		

Deadline: 31.07.23

<i>Articles</i>		
<i>Definitions from Article 3 regarding cluster 4:</i>		
(21) ‘packaging waste prevention’ means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, <u>including re-use and measures to extend the life of the packaging before it becomes waste.</u>		
<i>Article 9 Packaging minimisation</i>		
1. ~~Packaging shall be~~ The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.		
2. The manufacturer or importer shall ensure that p Packaging		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

~~not necessary to~~ comply~~ing~~ with any of the performance criteria set out in Annex IV ~~and/or~~ 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 subject to geographical indications of origin protected under Union legislation.		
~~3. The economic operator who fills the packaging shall ensure that e~~Empty space shall be ~~is~~ reduced to the minimum necessary for ensuring the packaging functionality, ~~including product protection~~, as follows: ~~(a)for sales packaging, in relation to the total volume of the packaged product and its characteristics;~~ ~~(b) for grouped and transport packaging, including e commerce packaging, in relation to the total volume of the grouped or transported products and their sales packaging;~~ ~~For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.~~		

4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements: (a) an explanation of the technical specifications, standards, and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV; (b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria; (c) any test results, studies or other relevant sources such as modelling and simulation studies used to assess the minimum necessary volume or weight of the packaging. For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, and in the first place the requirements set out thereof.		The FCM specifications also require tests, model solutions and food simulations to ensure that no substances migrate from the product in such amounts and in such quantities as to cause food safety problems. As in point (c), for FCMs, it may be appropriate to harmonise these two requirements.
4a. months after entry into force of this Regulation, the Commission shall request the European standardisation		

organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. <u>For certain most common packaging types and formats such standards should ~~and~~ specifying</u> maximum adequate weight and volume limits, and, if appropriate, <u>wall thickness and</u> maximum empty space <u>for certain most common packaging types and formats</u>.		
<i>Article 21 Obligation related to excessive packaging</i>		
1. Economic operators who supply products 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 %.		
2. For the purpose of this calculation: (a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging		

contained therein; (b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-commerce packaging. Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene or Styrofoam chips <u>or other filling materials</u>, shall be considered as empty space.		
<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		

Deadline: 31.07.23

3. Economic operators using sales packaging as e-commerce packaging <u>or using reusable packaging</u> shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements set out in Article 9.		
<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>		
<i>Article 22 Restrictions on use of certain packaging formats</i>		
1. <u>At the latest, three years after entry into force of this Regulation,</u> ~~E~~ economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

2. <u>By way of derogation from paragraph 1, economic operators shall not place on the market packaging in the formats and for the purposes listed in point 3 of Annex V as of 1 January 2030.</u>		
3. Member States may exempt micro-enterprises defined in accordance with the Commission Recommendation 2003/361/EC , ~~economic operators~~ from point 3 of Annex V ~~if they comply with the definition of micro company in accordance with rules set out in the Commission Recommendation 2003/361~~ , as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation], ~~and where~~ if it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.		
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend Annex V in	The Commission shall ~~be empowered to~~ adopt delegated acts in accordance with Article 58 to ~~amend~~ add or remove	We do not support restrictions without a full assessment of alternative solutions. The

order to adapt it to technical and scientific progress with the objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the restrictions on the use of specific packaging formats to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.	<i>packaging formats from Annex V based on an impact assessment study assessing alternatives of restricted packaging formats</i> , in order to adapt it to technical and scientific progress with the objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the restrictions on the use of specific packaging formats <i>and their alternatives</i> to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.	restrictions on certain single-use packaging formats should only be set in a way that they take into account any unintended consequences, and make sure that the functionality of the packaging is retained and that other parameters (such as the protection of packaged products and the resources required for packaging production) are not adversely affected.
4a. 48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, explaining in more detail Annex V, including examples of the packaging formats in scope and ~~guidance as regards the any exemptions.~~		We support further guidance, however, Annex V should already be defined as clear as possible.

Formatted: English (United Kingdom)

Deadline: 31.07.23

<i>Article 29 Plastic carrier bags</i>		
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, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.		
2. Measures to be taken by Member States to meet the target set out in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include the banning of lightweight plastic carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory.		

3. In addition to the measures under paragraphs 1 and 2 above, Member States may take measures, such as economic instruments, and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		
3a. <u>In case the Member State adopts national reduction targets concerning certain plastic carrier bags, they can introduce measures to achieve such targets, which may, by way of derogation from Article 4, include the banning of such carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory . If the measures take the form of bans, Member States shall monitor the effects of such measures and revoke the measures immediately in case there is a risk the end users can replace the use of banned carrier bags with a product having a more detrimental impact on the environment.</u>		
4. Member States may exclude very lightweight plastic carrier bags ~~which that~~ which are required for hygiene purposes or provided as		

Deadline: 31.07.23

sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		
<i>Article 38 Prevention of packaging waste</i> ▲		
	▲	
1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by 2030; 1. 10 % by 2035; 1. 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. For the purpose of paragraph 2, Member States may introduce ▲		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

packaging waste prevention measures going beyond the minimum measures set out in this Article, while complying with the provisions set out in this Regulation. Such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC, or other appropriate instruments and measures, including incentives through extended producer responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. ~~Such measures~~ They shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
	▲	
<u>3a. By way of derogation from paragraph 1, Member States may at the latest by [xx] request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2-3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under the condition that the Member State</u>		

<u>provide substantiated evidence (i) of a significant increase of packaging waste during the year to be used for base as calculation of the targets under paragraph 1 (ii) that such increase is due to changes in the reporting procedures only, and (iii) the increase is not due to an increased consumption.</u>		
4. By [<i>OP: Please insert the date = 8 years after the date of entry into force of this Regulation</i>], 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 the Commission finds it appropriate, by a legislative proposal.		
~~5. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article.~~		
<u>ANNEX IV</u>		

Deadline: 31.07.23

<u>METHODOLOGY FOR PACKAGING MINIMISATION</u>		
<u>ASSESSMENT</u>		
PART I Performance criteria		
1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.		
2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. The packaging manufacturing processes may determine packaging design elements such as the shape of a container, thickness tolerances, size, feasibility of tooling,		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.		
3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. Requirements may consist of dimensional co-ordination for optimum space utilisation, compatibility with palletizing and de-palletizing systems, handling and warehousing system, packaging system integrity during transport and handling.		
4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. Requirements may consist of providing product information, instructions for storage,		

Deadline: 31.07.23

application and use, bar codes, best before date, etc.		
	▲	
5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. Requirements may consist of: safe handling design, child resistance, tamper evidence, hazard warnings, clear identification of content, safe opening device, pressure release closure, etc.		
6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.	▲	
	▲	
7. Recycled content, recyclability and re-use: The packaging design shall ensure reusability, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. This means that the packaging weight or volume may have to be increased, beyond what		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

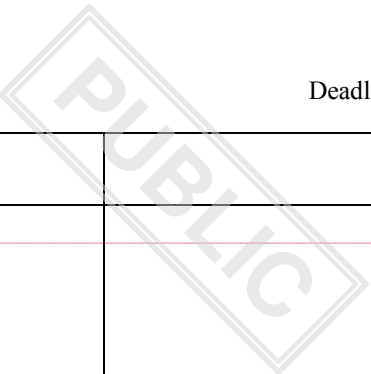
Formatted: English (United Kingdom)

Deadline: 31.07.23

would otherwise be possible under the other performance factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material).		
PART II Assessment methodology and determination of the minimum packaging volume and weight	▲	
	▲	
The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:		
~~(b)~~ (aa) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)



(a) (ab) for each performance criterion as listed in Part I, ~~a list of design requirements~~ a description shall be made which explains the design requirement that ~~which~~ prevents further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging material shall be investigated. It shall not be sufficient to substitute one packaging material with another;	▲	
	▲	
(c) any test results, market research or studies that have been used for the assessment conducted under points (aa) and (ab).	▲	
	▲	

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

ANNEX V					
RESTRICTIONS ON USE OF PACKAGING FORMATS					
	Packaging format	Restricted use	Illustrative example	Illustrative example	
1	Single-use plastic grouped packaging	Plastic packaging used at the point of sale ~~retail level~~ to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage consumers ~~end users~~ to purchase more than one product. This	Collation films, shrink wrap	Collation films, shrink wrap, <i>unless it is used for grouped packaging necessary to facilitate handling in distribution</i> Restricted use Plastic packaging used at the point of sale ~~retail level~~ to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage consumers ~~end users~~ to purchase more than one product. This excludes grouped packaging necessary to facilitate handling in business-to-business distribution.	The table should be carefully designed not to cause any misunderstanding and clarify that the 'illustrative examples' are only restricted if used in the restricted use. We do not see the necessity to restrict the exemption only to business-to-business distribution.

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

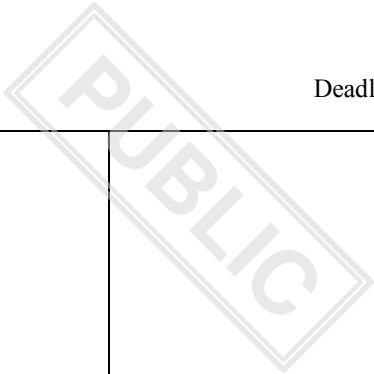
Formatted: English (United Kingdom)

PUBLIC

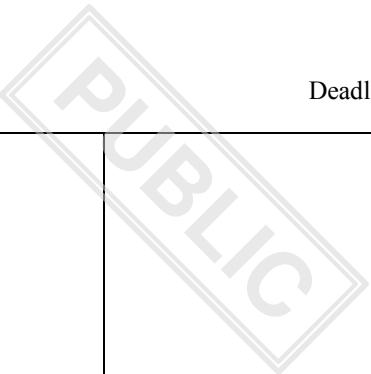
		excludes grouped packaging necessary to facilitate handling in <u>business-to-business</u> distribution.			
2	Single use ~~plastic packaging~~ ~~single use composite packaging~~ or other single use packaging for <u>unprocessed</u> fresh fruit and vegetables	Single use packaging for less than 1.5 kg <u>pre-packed</u> fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards or physical shocks, <u>oxidation</u> ,	Nets, bags, trays, containers		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

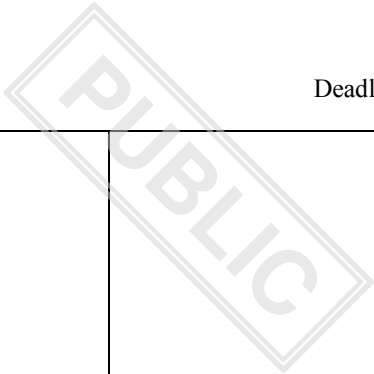


		~~with the exemption of packaging needed to avoid commingling of organic fruits and vegetables with non-organic fruits and vegetables according to Regulation (EU) 2018/848. Exemptions can also be made in the case there is no other possibility to comply with the requirements in regulation EU 2018/848, such as~~	

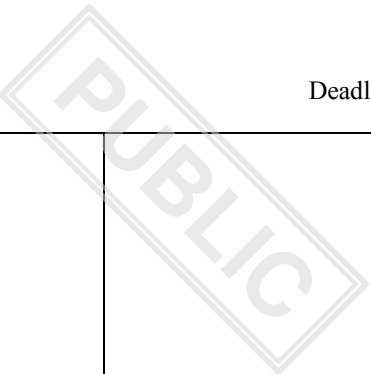


		<u>certification</u> <u>or labelling.</u>			
3	Single use <u>plastic packaging, single use composite packaging or other single use packaging.</u>	Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly	Trays, disposable plates and cups, bags, <u>foil</u> , boxes		

Formatted: English (United Kingdom)

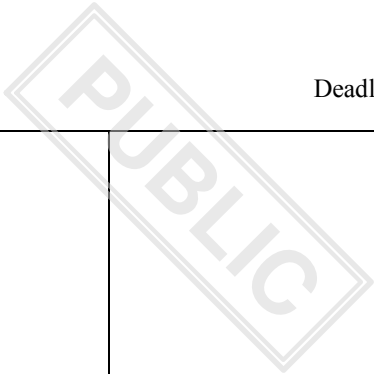


		by several economic operators or third party for the purpose of food and drinks consumption. <u>Packets and wrappers made from flexible material for the purpose of containing food that is intended for immediate consumption from the packet or wrapper without any further preparation, may be exempted.</u>			



4	Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector	Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation	Sachets, tubs, trays, boxes		
5	Single use hotel ~~miniature~~ packaging	For <u>disposable</u> cosmetics, hygiene and toiletry products ~~of~~	Shampoo bottles, hand and body lotion bottles, sachets around ~~miniature~~ —bar		

Formatted: English (United Kingdom)



		less than 50 ml for liquid products or less than 100 g for non liquid products <u>for the use in the accommodati on sector, according to NACE Rev. 2 – Statistical classification of economic activities^[1], intended for a single service and discarded before the next guest arrives.</u>	soap		
		^[1] NACE code 155, list can be found in EUROPA - Competition - Cases by NACE code - I			

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Field Code Changed

Formatted: English (United Kingdom)

Deadline: 31.07.23

Cluster 5 General provisions including the legal basis (Articles 1,2,4)		
<i>Recitals</i>		
(1). Products need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Prevention of barriers ~~to~~ on the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause additional cost to the economic operators.		
(2). In addition, packaging uses high amounts of virgin materials (40 % of plastics and 50 % of paper use in the Union is for packaging) and represents 36 % of municipal solid waste ^[1] . High and constantly growing levels of packaging generated as well as low levels of re-use and poor recycling, present significant barriers to achieving a low-carbon circular economy. For these reasons, this Regulation should establish rules over the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Deadline: 31.07.23

reducing the adverse impacts of packaging and packaging waste on the environment and human health. By laying measures in line with the hierarchy of waste, it should contribute to the transition to a circular economy.		
^[1] Eurostat, Packaging waste statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics		
(3) .European Parliament and Council Directive 94/62/EC ^[1] lays down requirements for Member States on packaging, such as essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and recovery and recycling targets.	▲	
^[1] ▲ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).		
	▲	
(4) .In 2014, a Fitness Check relating to Directive 94/62/EC ^[1] recommended adaptations of the essential requirements to make them “more concrete and easily enforceable” and to strengthen them, which were seen as a key tool to achieve better	▲	

Formatted: English (United Kingdom)

Field Code Changed

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Deadline: 31.07.23

environmental performance of packaging.		
^[1] European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209		
(5). In line with the Green Deal ^[1] , the new Circular Economy Action Plan (CEAP) ^[2] 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 Union-wide labelling that facilitates the correct separation of packaging waste at source.		
^[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN		
^[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter		
(6). Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately		

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Field Code Changed

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Deadline: 31.07.23

five-times better than incineration with energy recovery^[1]. Just as the European Strategy for Plastics^[2] states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of own resources contribute to reducing pollution from plastic packaging waste^[3]. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource is part of incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy.		
^[1] 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.		
^[2] 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.		
^[3] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM(OJ L 424, 15.12.2020, p. 1).		

Field Code Changed

Field Code Changed

Field Code Changed

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

(7). The Council underlined in its Conclusions of December 2020^[1], that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions to facilitate 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 materials, especially concerning food packaging materials, and to provide for labelling packaging in an easily understandable way to inform consumers about its recyclability and where its waste should be discarded to facilitate sorting and recycling. ^[1] https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf		
(8). The European Parliament's Resolution of 10 February 2021 on the New Circular Economy Action Plan^[1] 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,		

Field Code Changed

Formatted: Slovak

Field Code Changed

Deadline: 31.07.23

including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use.		
https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html		
(12). In line with the waste hierarchy set out in Article 4(2) of Directive 2008/98/EC, and in line with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for 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 packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, 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 higher recycling rates for all packaging and high quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.		
(13). Packaging should be designed, manufactured and		

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Deadline: 31.07.23

commercialised in such a way as to allow for 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.		
(32). It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies. Regarding plastic packaging except where made from polyethylene terephthalate (PET), it will be warranted, sufficiently ahead of the date of application of the related recycled content requirements, to reassess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on this assessment, there might be need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.		And all food contact materials, also recycled ones – shall comply with 1935/2004/EK.

Deadline: 31.07.23

<i>Articles</i>		
<i>Article 1 Subject matter</i>		
1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market, as well as for the extended producer responsibility, collection, and treatment, including and recycling of packaging waste.		
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, distortion and restriction of competition within the Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental		

Deadline: 31.07.23

protection.		
3. This Regulation contributes to the transition to a circular economy, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.		
<i>Article 2 Scope</i>		
1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.		
2. This Regulation applies without prejudice to Union		

Deadline: 31.07.23

regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the hygiene of the packed products, or to transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.		
<i>Article 4 Free movement</i>		
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 making available on the market for the first time within the territory of a Member State of packaging that complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 of this Regulation.		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Deadline: 31.07.23

~~3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.~~		
4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the placing making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements.		
5. In addition to the labelling requirements laid down in		

Deadline: 31.07.23

Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system ~~other than those referred to in Article 44(1).~~		
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it has been brought into conformity.		

PUBLIC

Deadline: 31.07.23

Deadline: 31.07.23

HU COMMENTS

ANNEX II – PART 3 OF THE TEXT REV01. CLUSTER 6, 8 - 11.

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 6 and from 8 to 11 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

Deadline: 31.07.23

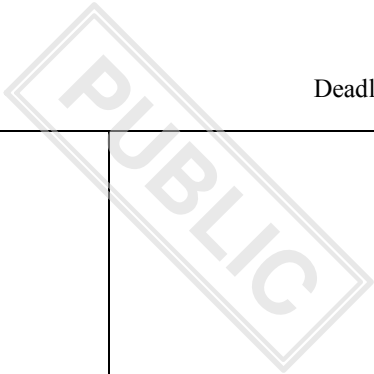
REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 6 Management of packaging waste		
<i>Recitals corresponding Cluster 6</i>		
(84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and 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.		
(85) Despite packaging minimisation requirements and objectives		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.		
(86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.		
(87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate		



any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.		
(88) As collection and management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the measures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive 2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>		
▲		
▲		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

(89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on		

average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained		

Deadline: 31.07.23

reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(93) 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 of the European Parliament and of the Council^[4], makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark.~~ <u>To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. The Regulation seeks to clearly define one producer per packaging unit, be it for empty packaging or for</u>		

Field Code Changed

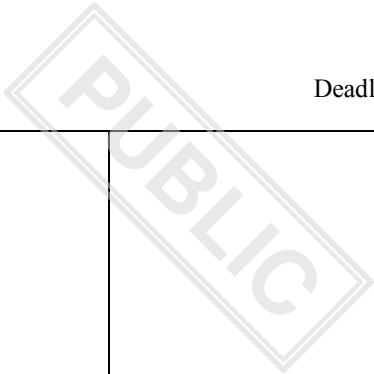
<u>packaging containing products. As a general rule, the producer should be the economic operator located in the Member State where the packaging is made available for the first time. The exception is when packaging is made available by means of distance contracts directly to the end-user when the producer is established outside the EU. The definition of producer takes into account, which economic operator is best placed to comply with the producer-related obligations, but also seeks to minimize unnecessary administrative burden for small businesses filling service packaging at the point of sale.</u>		
<u>11</u> 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).		
(94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State,		

Field Code Changed

Formatted: English (United Kingdom)

Deadline: 31.07.23

it is necessary that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.		
(95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.		
(96) In line with the polluter-pays principle expressed in Article 191(2) of the Treaty, it is essential that the producers placing on the Union market packaging and packaged products take responsibility		



for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. **For example, in order to facilitate the separate collection of packaging waste, the producers shall finance the labelling of waste receptacles. This is in line with the producer pay principle and the general minimum requirements for EPR schemes established in Directive 2008/98/EC.**

(96a) As regards extended producer responsibility (EPR)

Formatted: English (United Kingdom)

obligations, this Regulation is a *lex specialis* in relation to Directive 2008/98/EC, which means that where this Regulation ~~has~~ sets out EPR-related provisions, these should prevail over any conflicting provisions in that Directive. This concerns, for example, requirements on producer registration, fee eco-modulation of EPR fees and reporting. ~~However, all~~ Where this Regulation does not provide for a full harmonisation as regards ~~other~~ measures related to EPR or additional rules on non-harmonised topics in relation to EPR, Member States should be able to provide for additional measures, provided such measures are in accordance with Directive 2008/98/EC and consistent both with the national laws transposing that Directive and with this Regulation, should be regulated in accordance with the provisions of Directive 2008/98/EC and national rules transposing that Directive, without ~~and do not~~ creating barriers to the internal market. ~~Furthermore, this Regulation does not regulate arrangements of the systems of collection of packaging waste, as this is an example of a matter that is set by national law transposing Directive 2008/98/EC.~~ The same rule applies as regards separate collection of packaging waste and the labelling of waste receptacles. However, this Regulation does not regulate which operator is

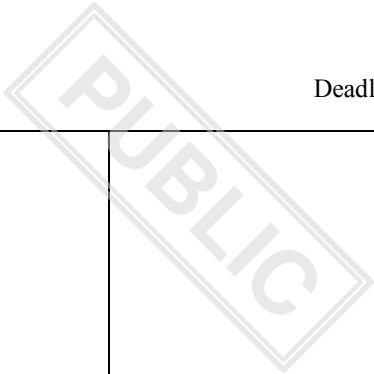
<u>responsible for the collection of packaging waste and other national contractual arrangements for packaging waste collection.</u>		
<u>(96b) In addition to the harmonized requirement on recyclability for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6), Member States should be allowed to use other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.</u>	In addition to the harmonized requirement on recyclability and regarding plastic packaging recycled content for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6) and as regards plastic packaging, also in accordance with the Article 7(6), Member States should be allowed to use other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.	Recital 96b refers to the fact that recyclability is the only harmonised fee modulation criterion, beyond which Member States are given a margin of flexibility. Member States also have a limited margin of manoeuvre with regard to the secondary raw material content of plastic packaging, as Articles 6(11) and 7(6) provide for a modulation of charges for plastic packaging according to the secondary raw material content from 2030. This latter uniform provision, together with recital 30, which provides that differentiation should be based on common rules for the calculation and control of the recycled content of plastic packaging, is in our view, in fact also a harmonised provision. Therefore, in recital 96b, this should be listed alongside recyclability as a common criterion, or neither of these should be specifically mentioned, but only

		a reference to the fact that Member States have a margin of flexibility beyond what is provided for in this regulation.
(97) Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. ~~Moreover, when establishing measures ensuring that arrangements are to be concluded with distributors, public authorities or third parties carrying out waste management. Member States should allow for preliminary, or similar,~~		

Deadline: 31.07.23

<u>agreements, and require that binding agreements are concluded only within a reasonable timeframe after the authorisation.</u>		
(98) This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council^[1] lays down rules on the traceability of traders, which more specifically contain obligations for are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to be a trader as defined in Regulation (EU) 2022/2065. In order to prevent free-riding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In		

Field Code Changed



that context, providers of online platforms, falling within the scope of Section 4 of Chapter III 3 of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, in line with Regulation (EU) 2022/2065 , from those producers, information about their compliance with the extended producer responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in Regulation (EU) 2022/2065.		
<u>11</u> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1) <u>12</u>		
(99) Member States should provide for the measures for the extended producer responsibility under this Regulation <u>and may also provide further requirements for extended producer responsibility</u> in accordance with the provisions of Directive 2008/98/EC and of this Regulation.		

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Field Code Changed

Formatted: English (United Kingdom)

Formatted: English (United Kingdom)

Deadline: 31.07.23

(100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.		
(101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of minimum percentage set for recycled content in plastic packaging.		

(102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high collection rates of metal beverages containers, it is appropriate that Member States establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.		
(103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging 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. In such situations, a		

Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Regulation.		
(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products, spirit drinks and milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the European Parliament and of the Council^[1]. Member States may establish deposit and return systems covering also other packaging. 1. ^[1] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).		

(105) All deposit and return systems <u>established after 1 January 2028</u> should comply with the <u>general</u> minimum ~~general~~ requirements laid down in this Regulation. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.		We support this addition. Already established DRS should be allowed to maintain their current form of operations. Only DRS coming into operation after 2028 should meet the minimum requirements. The content of this recital should be reflected in Article 44, paragraph 9.
(106) Member States and all 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. <u>The Commission, in consultation with Member States, should develop guidelines, including best-practices, for system inter-operability in regions with high</u>		

Deadline: 31.07.23

<u>transboundary business.</u>		
(107) Member States which achieve 90 % collection rate of the targeted packaging types without a deposit and return system two consecutive calendar years preceding the entry into force of this obligation, may request not to establish a deposit and return system.		
(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation</u>		

<u>and managing systems for different packaging formats, Member States are allowed to have a different system operator for the re-use system and another operator for the system for single-use plastic beverage bottles and single use metal beverage containers. However, only one operator per system should be allowed.</u>		
(109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council^[1] setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be retained. 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, it should not be possible to postpone the deadlines for attaining the 2030 recycling targets. ^[1] 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).		

(110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more ~~recyclable packaging, coupled with greater granularity of data on the packaging~~ and packaging waste recycling flows, should be reported to the Commission. That will enable the Commission to review the targets with the possibility of maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 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 than the current targets.		

(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation, to be corrected with average loss rates occurring before the waste enters the recycling operations. Losses of materials which occur before the waste enters the recycling operation, for instance due to sorting or other preliminary operations, should not be included in the waste amounts reported as recycled. Those losses can be established on the basis of electronic registries, technical specifications, detailed rules on the calculation of average loss rates for various waste streams or other equivalent measures. Member States should report on such measures in the quality check reports accompanying the data which they report to the Commission on waste recycling. The average loss rates should preferably be established at the level of individual sorting facilities

and should be linked to the different main types of waste, different sources (such as household or commercial), different collection schemes and different types of sorting processes. Average loss rates should only be used in cases where no other reliable data are available, in particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.		
(112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging		

Deadline: 31.07.23

waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		

(114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004^[1] laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC. ^[1] Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).		
(115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council^[1] applies. ^[1] 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).		

(116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by taking into account maximum 5 percentage points of the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.		
(117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. <u>They should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. Only</u>		

<u>packaging listed in this Regulation and marked as home-compostable is suitable for home composting. No packaging is suitable for biodegradation in nature.</u> The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies. The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.		
<u>(117a) For labelling of biobased plastic content, the Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics¹⁴ (COM 2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, <u>fully or partly, -made from biomass-biobased feedstock</u> . The biomass</u>		

currently originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by-products, such as used cooking oil, bagasse and tall oil. ~~Plastics can be fully or partially made from biobased feedstock.~~ Biobased plastics can be both biodegradable and non-biodegradable. ¹¹¹ https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en		
(118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. Providing of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return		

Deadline: 31.07.23

systems to be set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.		
(119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type, amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.		
(120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.		

(121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission so that the latter ~~to~~ can establish rules for calculation and verification of data on attainment of the recycling targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896^[1] and 2005/270/EC^[2]. ^[2] Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European		

Deadline: 31.07.23

Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).		
(122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation, the Member States should establish packaging databases and ensure that they are well-functioning		
<u>Corresponding definitions in Article 3</u>		
(1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, <u>also referred to as ‘service packaging’</u> .		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a~~		

<u>territory of a Member State on a professional basis under its own name or trademark; alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		

Deadline: 31.07.23

(15) authorised appointed —representative for the extended producer responsibility’ 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 VII of this Regulation;		
(50) ‘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;		

Deadline: 31.07.23

(51) 'deposit and return system' means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;		
(52) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;		
(53) 'harmonised standard' means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;		
(55) 'producer responsibility organisation' means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;		

Deadline: 31.07.23

(56) ‘life-cycle’ means the consecutive and interlinked stages that packaging goes through, ~~including the packaging waste management stage~~ , from raw material acquisition or generation from natural resources to ~~final disposal of the packaging waste management~~ .		
(59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;		
(60) ‘ waste’ means waste as defined in Article 3 point (1) of Directive 2008/98/EC, with the exception of reusable packaging conveyed to reconditioning;		
<i>Article 35</i> <i>Competent authority</i>		

Deadline: 31.07.23

1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations set out in this Chapter and in Article ~~6(9)~~ , 26(1) to (10), Article 27, Article 28 and Article 29.		
2. Member States shall lay down the details of the organisation and operation of the competent authority or competent authorities, including administrative and procedural rules governing: (a) the registration of producers in accordance with Article 39; (b) the organisation and monitoring of reporting requirements under Article 39(7); (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40; (d) the making available of information in accordance with Article 50.		
3. By [OP: Please insert the date = ~~63~~ months after the date		

<i>of entry into force of this Regulation</i>], 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.		
<i>Article 36</i> <i>Early warning report</i>		
1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.		
2. The reports referred to in paragraph 1 shall include the following:		

Deadline: 31.07.23

(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.		
<i>Article 37 Waste management plans and waste prevention programmes</i>		
1. Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles ~~43, 44 and 38~~ and ~~45~~46 of this Regulation.		

1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 38 and 45 of this Regulation.		
<i>Article 39 Register of producers</i>		
1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter. The register shall provide links to other national registers of producers' websites to facilitate, in all Member States, registration of producers or ~~appointed~~ authorised representatives for the extended producer responsibility.		

Deadline: 31.07.23

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 referred to in Article 41(1), the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.		
3. The obligations set out in this Article may, on ~~the producer's behalf~~, behalf of producers by written mandate, be met by an ~~appointed~~ authorised representative for the extended producer responsibility.		
4. Producers shall not make available packaging on the		

Deadline: 31.07.23

market, if they or, where applicable, their ~~appointed~~ authorised representatives for the extended producer responsibility, are not registered in such Member State.		
5. The application for registration shall include the information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents if it is necessary for an efficient use of the register.		
6. Where an ~~appointed~~ authorised representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the contact details of each one of the represented producers separately.		
7. The producer or, where applicable, the producer's		

~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the register, <u>at the latest by 1 June 30 April</u> ~~1 March~~ for each full preceding calendar year, the information set out in Part B of Annex IX.		
<u>7a. Producers, or where applicable, the producer's authorised representative, who are exempted from the obligation in paragraph 7 if they</u> fall under the definition of micro-enterprise in accordance with the Commission Recommendation 2003/361/EC as publicly available applicable on [<i>OP: Please insert the date = the date of entry into force of this Regulation</i>] <u>shall report to the competent authority responsible for the register, by 30 April, for each full preceding calendar year, the information set out in Part C of Annex IX .</u>		
8. The competent authority responsible for the register:		

(a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website; (b) shall grant registrations and provide a registration number within a maximum period of ~~twelve weeks~~ <u>1-month twelve weeks</u> from the moment that all the information laid down in paragraphs 5 and 6 is provided; (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6; (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2; (e) shall receive and monitor the reporting referred to in paragraph 7.		
9. The producer, or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall without undue delay notify the competent authority of any changes to the information contained in the		

Deadline: 31.07.23

registration and of any permanent cessation of the making available on the market within the territory of the Member State of the packaging referred to in the registration. A producer shall be excluded from the register if the producer has ceased to exist as a producer.		
10. Member States shall ensure that the list of registered producers shall be publicly available <u>free of charge</u>. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. <u>The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use</u>. ~~Where the information in the register of producers is not publicly accessible, Member States shall ensure that providers of online platforms allowing consumers to conclude distance contracts with producers are granted access, free of charge, to the information in the register.~~		

11. The Commission shall, <u>by no later than three years after the entry into force of this Regulation</u> ~~<i>{OP: please insert the date X after the date of entry into force of this Regulation}</i>~~, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the packaging types and material categories to be covered by the reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
<i>Article 40 Extended Producer Responsibility</i>		
1. Producers of packaging shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging that they make available on the market for the first time within the territory of a		

Deadline: 31.07.23

Member State.		
<u>1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the collection of packaging waste as referred to in Article 12.</u>		
2. A producer shall appoint, by written mandate, an ~~appointed~~ authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time.		
3. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, P providers of online platforms, falling within the scope of Section 4 of Chapter 3 III of Regulation (EU) 2022/2065, allowing consumers to conclude distance		

contracts with producers shall obtain the following information from producers offering packaging to consumers located in the Union: (a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located and the registration number(s) of the producer in that register; (b) a self-certification by the producer committing to only offer packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this article are complied with in the Member State where the consumer is located.		
<u>3a</u> <u>The provider of the online platform allowing consumers to conclude distance contracts with traders shall verify the information in paragraph 3 point (a) with the publicly available registration list referred to in Article 39(10), and where the provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 3 obtained from the trader concerned is inaccurate,</u>		

<u>incomplete or not up-to-date, the provider shall request the trader to remedy that situation without delay or within the period set by national law. Where the trader fails to correct or complete that information, the provider of the online platform shall swiftly suspend the provision of its service to that trader until the request has been fully complied with.</u>		
<i>Article 41 Producer Responsibility Organisation</i>		
1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.		
2. Where, in the territory of a Member State, multiple		

producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, the Member State shall ensure that the producer responsibility organisations <u>and producers that have not entrusted a producer responsibility organisation</u>, when taken together, cover the whole territory of the Member State as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.		
3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their ~~appointed~~ authorised representatives.		
4. In addition to the information referred to in Article 8a(3),		

point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every year ~~and subject to commercial and industrial confidentiality~~ , information on the amount of packaging made available on the market for the first time in the territory of a Member State and on the levels of recovered and recycled materials in relation to the amount of packaging for which they have been performing producer responsibility obligations.		
<i>Article 42 Authorisation on fulfilment of extended producer responsibility</i>		
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 State shall in its measures laying down administrative and procedural rules referred to in Article 35, establish the requirements and details of the authorisation procedure, which can be different for either individual or collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the information to be provided by producers or producers 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~~may be done by a competent authority or an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility organisations or the producers authorised for individual fulfilment.		

3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that: (a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with; (b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the return or collection in accordance with Article 43(1) and (2) and Article 44, free of charge for end users, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types 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, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf; (d) the necessary sorting and recycling capacity is available to		

Deadline: 31.07.23

ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling; (e) the requirement laid down in paragraph 6 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 in particular if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or in relation to the notification of any changes that concern the terms of the authorisation,		

Deadline: 31.07.23

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 an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case of non-compliance with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. That guarantee may take the form of a recycling insurance or a blocked bank account or participation by the ~~producer~~ producer in the producer responsibility organisation. Member States may specify additional requirements on this guarantee.		

Deadline: 31.07.23

<u>Annex IX</u> <u>INFORMATION FOR REGISTRATION AND REPORTING TO THE REGISTER REFERRED TO IN ARTICLE 39</u>		
A. Information to be submitted upon registration		
1. The information to be submitted by the producer or its authorised representative for EPR shall include: (a) name and brand names (if available) under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, indicating a single contact point; (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number; (c) quantities by weight of types of packaging as set out in Table 1		

Deadline: 31.07.23

of Annex II, that the producer makes available in the Member State for the first time;		
(d) a declaration on how the producer meets its responsibilities under Article 40.		
2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and e-mail address and the national identification code of the producer responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.		

3. In the case of an authorisation in accordance with Article 41(1), the producer responsibility organisation shall, in addition to the information required under point 1 of Part A of this Annex, provide: (a) the names and contact details, including postal codes and places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented; (b) the mandate of each represented producer, where applicable; (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the represented producers meets the responsibilities set out in Article 40.		
B. Information to be submitted for reporting		
(a) national identification code of the producer; (b) reporting period;		

(c) quantities by weight of packaging types as set out in Table 1 in Annex II that the producer makes available in the Member State for the first time; (d) quantities, by weight, per material of packaging waste separately collected within the Member State as set out in Table 1 in Annex II; (e) quantities, by weight, per material and type of packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII; (f) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII; (g) arrangements to ensure the producer responsibility regarding the waste from packaging placed on the market.		
<u>C. Information to be submitted for reporting for micro-enterprises</u>		

Deadline: 31.07.23

<u>a. national identification code of the producer;</u> <u>b. reporting period;</u> <u>c. information on packaging types set out in Table 1.</u> <u>d. arrangements to ensure the producer responsibility regarding packaging placed on the market</u>					
Table 1					
	Quantities by weight made available in member state	Quantities by weight collected	Quantities by weight recycled		
Glass					
Plastic					
Paper/cardboard (including composite)					
Ferrous metal					
Aluminium					
Wood					

Other					
Total					
Deposit return systems and waste collection					
<i>Article 43 Return and collection systems</i>					
1. <u>By 2030,</u> Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year,</u> in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>				<u>By 2030,</u> Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, in a given year, in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed with the exception of waste resulting from subsequent treatment operations of the separately collected waste for which recycling is not feasible or does not deliver the best</u>	A 100% ban on incineration or landfilling seems excessive, as (1) even from separately collected, designed-for-recycling packaging there will be some sorting residue which cannot be recycled, and (2) some packaging waste will also remain in the mixed waste, from which 100% recycling cannot be ensured. We therefore propose similar wording to Article 10(4) of the WFD.

	<u>environmental outcome.</u>	
2. Member States may allow derogations from paragraph 1 provided that collecting packaging or fractions of packaging waste together or together with other waste does not affect the potential of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.		
3. The systems referred to in paragraph 1 shall: (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf; (b) cover the whole territory of the Member State and all	a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf, <i>in line with specific requirements by the Member State in which the systems are set up</i> ;	Systems for the return and separate collection of all packaging waste should be set up in line with the specific requirements of Member States.

Deadline: 31.07.23

packaging waste from all types of packaging and activities, and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas; (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.		
5. ~~By way of derogation from the separate waste collection obligation in paragraph 3, certain types of packaging waste~~		

Deadline: 31.07.23

may be collected together where such collection does not affect their potential to undergo recycling operations and results in output from those operations which is of comparable quality to that achieved through separate collection.		
<i>Article 44 Deposit and return systems</i>		
1. By 1 January 2029, Member States shall take the necessary measures to ensure ~~that deposit and return systems are set up for the~~ separate collection of at least 90% per year by weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year (a) single use plastic beverage bottles with the <u>minimum</u> capacity of 0,1 litres up to three litres; and (b) single use metal beverage containers with a <u>minimum</u> capacity of 0,1 litres up to three litres.		

2. In order to achieve the targets referred to in paragraph 1, Member States shall <u>take the necessary measures to ensure that establish</u> deposit return systems <u>are set up</u> for the relevant packaging formats referred to in paragraph 1. Such obligation The obligation laid down in paragraph 1 does not apply to packaging for: (a) wine, aromatised wine products, and spirit drinks; (b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.		
~~3. Without prejudice to paragraph 1 of this Article, a Member States will~~ may be exempted from the obligation under paragraph ~~1~~2 under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as reported to the Commission under Article 50(1) point (c) is above 90 % by weight of such packaging ~~placed~~ made		

available on the market for the first time on the territory of that Member State in the calendar years 2026 and 2027. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the		

Deadline: 31.07.23

requirements set out in point (be) of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the Commission notified the Member State concerned that the exemption no longer applies.		
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, beverage cartons and for reusable packaging. Member States shall endeavour to ensure that deposit and return systems for single-use packaging		

Deadline: 31.07.23

formats, in particular for single use glass beverage bottles, are equally available for reusable packaging where technically and economically feasible.		
7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article <u>and the possibility to include packaging for other products.</u>		
8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are not less convenient for end users than opportunities to return single-use packaging to a deposit and return system.		
9. By 1 January 2028, Member States shall ensure that all	~~By 1 January 2028~~ , Member States shall ensure that all deposit and return systems	In line with the suggested change to Recital (105) – which we

deposit and return systems, including those established under paragraph 5 <u>6</u> , meet the minimum criteria listed in Annex X.	established after 1 January 2028 , including those established under paragraph 5 <u>6</u> , meet the minimum criteria listed in Annex X.	support – , this Article should reflect, that only deposit and return systems established after 1 January 2028 should comply with the general minimum general requirements. Already established DRS should be allowed to maintain their current form of operations.
9a. <u>48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, on deposit and return systems inter-operability, including examples of best-practices, for regions with high transboundary business.</u>		
<u>ANNEX X</u> <u>MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS</u>		
For the purpose of this Annex, the following definition shall apply: ‘system operator’ means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit		

Deadline: 31.07.23

and return system in a Member State.		
Minimum general requirements for deposit and return systems Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:		
(a) a single system operator is established or licenced. When deposit and return systems are established for specific packaging formats for reuse or single use, Member States may establish more than one single a different system operator per system;		
(b) the governance of the system allows for equal access and fair conditions of all economic operators wishing to become part of the system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;		
(c) control procedures and reporting systems are set up allowing		

the system operator to obtain data on the collection of packaging covered by the deposit and return system;		
(d) a minimum deposit level is established, which is sufficient to achieve the required collection rates; <u>(da) a minimum deposit to be charged at the point of sale,</u>		
(e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;		
(f) system operator is a non-profit and independent legal entity	(f) system operator is an ~~non-profit and~~ independent legal entity	The non-profit requirement would not serve the system and its long-term development, thus would not serve consumer needs and the fulfilment of waste management and environmental protection objectives. There are several advantages to an operator having a for profit experience and mindset, as this can help establish the necessary efficiency and continuously improve the overall performance, while maintaining transparency in the system. It should be clarified what is meant under independent.

(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;	~~(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;~~	This is an unnecessary separation requirement that is unjustified from a professional point of view. There are several advantages to an operator utilising its expertise acquired from other (e.g. EPR) roles and the related infrastructure, IT system and partner network built for those roles, as this can help create the necessary efficiency, including cost efficiency, and performance needed to achieve environmental objectives.
(h) system operators coordinates the functioning of the deposit and return system;		
(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system; (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates;		

(j) a sufficient amount ~~at least 1% of the annual~~ turnover of the system operator (excluding deposits) are used for public awareness campaigns on the information on management of packaging waste;		
(k) system operators must provide any information requested by the competent authorities of a Member State, in which the system operates, for the purposes of monitoring compliance with the requirements in this Annex;		
(l) Member States shall ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with redeemed deposits. ~~When implementing this obligation, Member States shall take into account at least the following factors:~~ ~~(i) sales surface area allowing end users to return deposit bearing packaging in their~~ according to the local conditions; ~~(ii) buying and selling habits and traditions;~~ ~~(iii) food safety;~~ ~~(iv) health and safety;~~		

Deadline: 31.07.23

(v) public health;		
~~(m) deposit is exempted from sales taxes;~~		
(n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;		
(o) all deposit bearing packaging is clearly labelled, so that the end users can easily identify the need to return such packaging;		
(p) fees are transparent;		
~~(q) all packaging covered by the deposit and return system.~~		
(r) In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.		
~~Member States with regions with high transboundary business shall ensure that the functioning of the DRS allows for the interoperability of DRS and that the implementation of the minimum~~		

Deadline: 31.07.23

~~requirements and of any additional requirements does not result in discrimination of business and consumers and market distortions.~~		
Member States are allowed to create exemptions from charging a deposit for a deposit bearing packaging in the context of consumption in hospitality premises provided that a deposit bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.		
<i>Article 46 Recycling targets and promotion of recycling</i>		
1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory: (a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated; (b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 50 % of plastic;		For FCMs, we believe that the mandatory secondary raw material content should only be set if there are harmonised EU requirements for the given raw material to regulate recycling and guarantee food safety.

(ii) 25 % of wood; (iii) 70 % of ferrous metals; (iv) 50 % of aluminium; (v) 70 % of glass; (vi) 75 % of paper and cardboard; (c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated; (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 55 % of plastic; (ii) 30 % of wood; (iii) 80 % of ferrous metals; (iv) 60 % of aluminium; (v) 75 % of glass; (vi) 85 % of paper and cardboard.		
2. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following		

conditions: (a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets, (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %, (c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and (d) at the latest 24 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).		

Deadline: 31.07.23

3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
4. By [OP: Please insert the date = 8 years after the date of entry into force of this Regulation], the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.		
5. Member States shall, where appropriate, encourage the		

Deadline: 31.07.23

use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by: (a) improving market conditions for such materials; (b) reviewing existing rules preventing the use of such materials.		
6. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum ~~targets~~<u>requirements</u> set out in this Article.		
<i>Article 47 Rules on the calculation of the attainment of the recycling targets</i>		
1. The calculation whether the targets laid down in Article 46(1) have been attained shall be carried out in accordance		

Deadline: 31.07.23

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

Deadline: 31.07.23

4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.		
5. ~~Packaging waste exported out of the Union shall be calculated as recycled 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.~~		

6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first sub-paragraph of this ~~Article~~paragraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that: (a) such output waste is subsequently recycled; (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.		
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in paragraphs 2 ~~and~~ to 7 are met. That system may consist of electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC or technical specifications for the quality requirements of		

sorted waste. It may also consist of average loss rates for sorted waste for various waste types and waste management practices respectively, provided that reliable data cannot be otherwise obtained. Average loss rates shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.		
8. The amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.		
9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before		

Deadline: 31.07.23

being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as recycled.		
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.		
11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted as recycled by the Member State in which that packaging waste was collected.		

Deadline: 31.07.23

12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are broadly equivalent to the requirements of the relevant Union environmental law.		
<i>Article 48 Rules on the calculation of the attainment of the recycling targets by including re-use</i>		
1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the		

market for the first time and re-used as part of a system for re-use of packaging. The adjusted level shall be calculated by subtracting: (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in the first subparagraph in all sales packaging placed on the market, and (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market. No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.		
2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point		

Deadline: 31.07.23

(a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).		
<u>ANNEX XI</u> <u>IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO</u> <u>POINT (D) OF ARTICLE 46(2)</u>		
The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:		
(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;		
(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;		
(c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of		

Deadline: 31.07.23

the time extension necessary to meet that target;		
(d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;		
(e) a timetable for the implementation of the measures identified in point 4(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;		
(f) information on funding for waste management in line with the polluter-pays principle;		
(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.		
<i>Article 50 Reporting to the Commission</i>		

Deadline: 31.07.23

1. Member States shall report to the Commission for each calendar year the following data: (a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging, (b) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category as listed in table 5 of Annex XII; (c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1), Member States may provide data on the annual consumption of very thick plastic carrier bags per person		
2. Member States shall report ~~for each packaging material and type as listed in Table 1 of Annex IX~~ for each calendar year data on: (a) the amounts of packaging made available placed on the market for the first time on the territory of that Member State for each packaging ~~type~~ category and material as listed in Table 1 of Annex ~~IX~~; (b) amounts of separately collected packaging waste for each packaging material as listed in Table ~~13~~ in the Annex ~~XIX~~;		

Deadline: 31.07.23

(c) the recycling rates of packaging waste as listed in Table 4 of Annex XII; (d) installed capacities for sorting and recycling for each packaging type and material as listed in Table 1 of Annex II.		
3. The first reporting period shall concern: (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, the 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 1, point c, the calendar year starting from 1 January 2028.		
4. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in		

Deadline: 31.07.23

accordance with paragraph 7.		
5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the format established by the Commission in accordance with paragraph 7.		
6. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article 47(~~58~~) and (~~812~~), including detailed information about the average loss rates where applicable.		
7. The Commission shall, by [<i>OP: Please insert the date = ~~2412~~ months after the date of entry into force of this Regulation</i>], adopt implementing acts establishing: (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting; (b) the methodology for the calculation of the annual		

consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
8. Member States shall require that all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant, particular problems faced ~~by~~ ing small and medium-sized enterprises with regard to the provision of detailed data.		
<i>Article 51 Packaging databases</i>		
1. By [OP: Please insert the date = xx months after the date of entry into force of this Regulation], the Member States shall take the necessary measures to ensure that databases on		

Deadline: 31.07.23

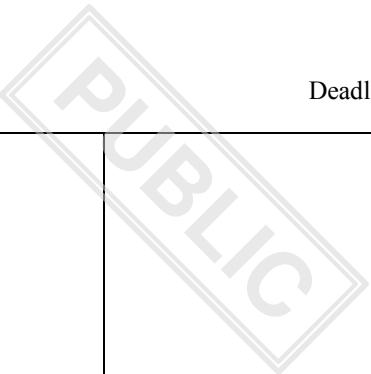
packaging and packaging waste are established, where not already in place, on a harmonised basis, to enable the reporting to the Commission.		
2. The databases referred to in paragraph 1 shall include the following: (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States; ~~(b) information on the toxicity or danger of packaging materials and components used for their manufacture;~~ (c) the data listed in Annex XII.		
<u>ANNEX XII</u> <u>DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE</u> <u>(IN ACCORDANCE WITH TABLES 1 TO 4)</u>		
1. For sales, grouped and transport packaging:		

Deadline: 31.07.23

(a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1); (b) quantities reused (Table 2).		
2. For sales, grouped and transport packaging waste: (a) Quantities for separately collected packaging waste per material (Table 3) (b) Quantities recovered and disposed of, recycled and quantities recovered for each packaging type (Table 4). (c) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5) (d) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)		
TABLE 1 Quantity of packaging (sales, grouped and transport) generated within the national territory		

Deadline: 31.07.23

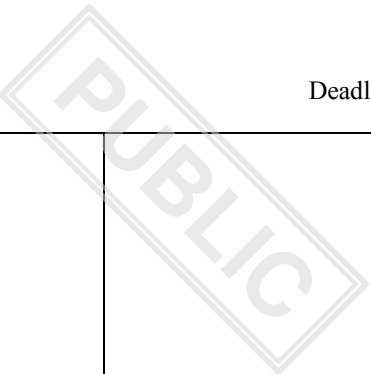
	Tonnage produced	- Tonnage exported	+ Tonnage imported	+ Tonnage stored	= Total		
Glass							
Plastic							
Paper/cardboard (including composite)							
Ferrous metal							
Aluminium							
Wood							
Other							
Total							
TABLE 2 Quantity of <u>total</u> sales packaging (sales, grouped and transport) reused within the national territory							
	Tonnage of packaging placed	Reusable packaging		Reusable sales packaging			
		tonnage	Percentage of	Tonnage	Percentage of		



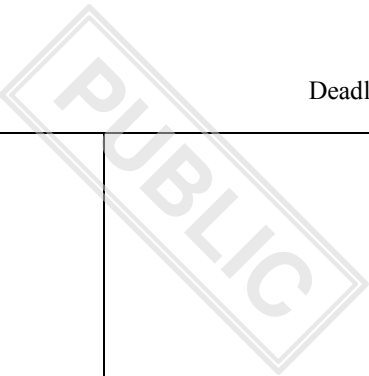
	made availabl e on the market for the first time on the territor y of that Membe r State		total reusable packagi ng		total reusable sales packagi ng		
Glass							
Plastic <u>includin g composi te</u>							
Paper/ca rdboard (includin g composi te packagin g)							
Ferrous metal (includin g tinplate and composi te							

Deadline: 31.07.23

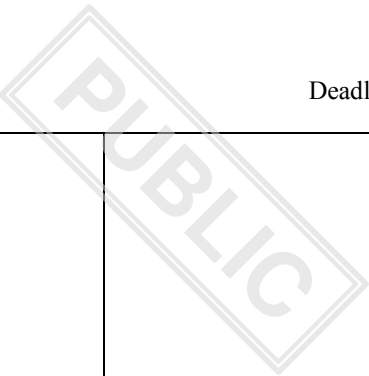
packaging)							
Aluminium							
Wood							
Other							
total							
TABLE 3 Quantity of generated packaging waste within the national territory and Quantity of separately collected packaging waste per material (sales, grouped and transport) generated within the national territory							
Packaging material	Packaging waste generation (t)	From Packaging waste separately collected (t)					
Glass							
Plastic (rigid and flexible)							



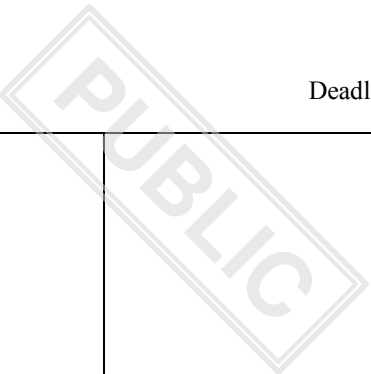
Paper/cardboard (including composite)								PUBLIC	
Metals (Ferrous metal and aluminium, including composite)									
Wood									
Other									
Total									
TABLE 4									
Quantity of packaging waste recovered and disposed of within the national territory <u>and exported</u>									
Packaging		Total tonnage disposed	Total tonnage disposed	Total tonnage recovered	Quantity recycled		Quantity recovered		
					Tonnage	Percentage	Tonnage	Percentage	



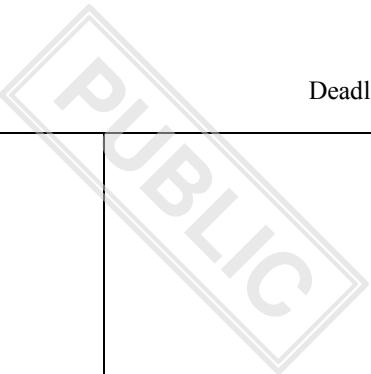
		ose d of outs ide nati onal terr itor y	ose d of	d and disp ose d of					
Within the national territory									
Glass, including composite									
Plas tic, PET	Rigi d								
Plas tic, PP									
Packaging		Tot al ton nage dis pose d of outs ide nati ona l terr	Tot al ton nage dis pose d of	Tot al tonn age reco vere d and disp ose d of	Quantity recycled	Quantity recovered			



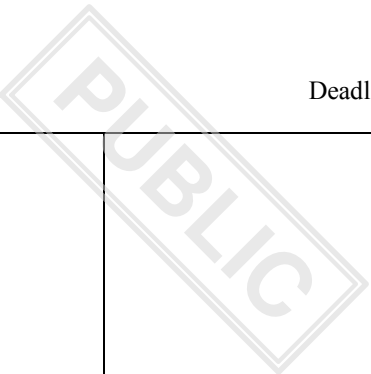
		ity									
Plas tic, HD PE and PP					Ton nag e	Perc enta ge	Ton nag e	Perc enta ge			



Plas tic, PET	Flex ible								
Packaging	Tot al ton nage dis pose d of outs ide nati ona l terr itor y	Tot al ton nage dis pose d of	Tot al tonn age reco vere d and dis pose d of	Quantity recycled		Quantity recovered			
				Ton nage	Perc enta ge	Ton nage	Perc enta ge		
Plas tic, PP									
Plas tic, PE									
Plas tic, mul ti- laye r									
Paper/card board (non-									



composite)									
Composite Paper/card board									
Ferrous metal (including tinplate and composite packaging of which the									
Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered			
				Tonnage	Percentage	Tonnage	Percentage		
majority is steel)									
Aluminium (including									



composite packaging of which the majority is aluminium									
Wood									
Textile									
Ceramic, porcelain or stoneware									
Other									
Total packaging									
Packaging	Total tonnage disposed of outside national territory	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered				
			Tonnage	Percentage	Tonnage	Percentage			
waste									

Table 5 Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick plastic carrier bags per person, consumed within the national territory				
	Plastic carrier bags consumed within the national territory			
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>	Number per person	Tonnes per person		
lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>				
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>				

Table 6				
Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)				
	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)		
Single use plastic beverage bottles with the capacity of up to 3 litres				
Single use metal beverage containers with a capacity of up to 3 litres				
Cluster 8 Remaining obligations of economic operators				
Recitals corresponding cluster 8				

(39) It should be recalled that all ~~compostable packaging constituting a food contact material~~ is packaging in contact with food, including compostable packaging, has to meet the requirements ~~set out in~~ <u>under the scope of set out in</u> Regulation (EC) No 1935/2004 on materials and articles intended to <u>be brought come</u> into contact with food <u>or already in contact with food</u>. Where appropriate, the documentation and information required according to the legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.		
(51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.		

(51a) 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 provides common principles and reference provisions for the drawing up of legislation harmonising the conditions for the marketing of products. In order to ensure consistency with other sectoral product legislation and to simplify application and enforcement, this regulation should be aligned to that Decision, unless specific circumstances require a different solution <u>in this Regulation</u>. Therefore, ~~the current Regulation should have recourse to that~~ Decision <u>768/2008/EC should be used</u> as regards certain definitions, general obligations of economic operators, presumption of conformity, ~~provisions regarding~~ formal objections against harmonised standards, ~~and~~ notification procedures, and the provisions concerning procedures dealing with products presenting a risk, <u>when not otherwise specified in this Regulation</u>.		

(52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should therefore remain solely the obligation of the manufacturer.		
(53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market ~~complies~~ complies with this Regulation, whether imported as ~~self-standing~~ standalone packaging or ~~in as part of~~ in association with a packaged		

product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		
(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer		

Deadline: 31.07.23

	or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.	
(57)	As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.	
(58)	Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.	

(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		
Definitions article 3 corresponding :		
(6) 'making available on the market' means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;		
(7) 'placing on the market' means the first making available of a packaging on the Union market;		

(8) 'economic operator' means manufacturers, suppliers of packaging, importers, distributors, authorised representative , final distributors, and fulfilment service providers;		
(9) 'manufacturer' means any natural or legal person who manufactures packaging under its own name or trademark, or has packaging designed or manufactured <u>under its own name or trademark</u> ~~and uses that packaging for the containment, protection, handling, delivery or presentation of products under its own name or trademark, without it having been placed on the market previously;~~		
(10) 'producer' means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member~~		

<u>States on a professional basis under its own name or trademark; alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		

Deadline: 31.07.23

(11) 'supplier' 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 or presentation of products under its own name or trademark;~~		
(12) 'importer' means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;		
(13) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;		

Deadline: 31.07.23

(14) 'authorised representative' means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer's obligations under this Regulation;		
<i>Article 13 Obligations of manufacturers</i>		
1. When placing packaging on the market, manufacturers shall ensure that the packaging complies with the following: (a) it has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; (b) it is labelled in accordance with the applicable requirements set out in Article 11.		

Deadline: 31.07.23

2. Before placing packaging on the market, manufacturers shall carry out the relevant conformity assessment procedure referred to in Article 33, or have it carried out on their behalf, and draw up the technical documentation referred to in Annex VII. Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.		
3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10-5~~ years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market.</u>		
4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this		

Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may be affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.		
5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.		
6. Manufacturers shall indicate on the packaging or on a QR code		

or another data carrier their name, registered trade name or registered trade mark as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code or other type of digital data carrier referred to in Article 11(2) or the data carrier referred to in Article 11(4) or in a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.		
7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market 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.		
9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or~~ electronic form and, on request, in paper form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.		

Deadline: 31.07.23

<i>Article 14 Information obligations of suppliers of packaging or packaging materials</i>		
10. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.		
11. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.		

<i>Article 15 Obligations of authorised representative</i>		
1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 13(1) and the obligation to draw up technical documentation referred to in Annex VII and required under Articles 5 to 10 shall not form part of the authorised representative's mandate.		
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following: (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~10~~ 5 years after <u>the single-use</u> packaging has been placed on the market, and 10 years after reusable packaging has been placed on the market;		

(b) cooperate with the national authorities, at their request, on any measures taken with regard to non-compliances of the packaging covered by the authorised representative's mandate; (c) further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging in a language or languages, which can be easily understood by that authority; (d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request; (e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.		
<i>Article 16 Obligations of importers</i>		
1. Importers shall only place on the market packaging which is		

compliant with the requirements of Articles 5 to 11.		
2. Before placing packaging on the market, importers shall ensure the following: (a) the appropriate conformity assessment procedure; referred to in Article 33 has been carried out and the technical documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer; (b) the packaging is labelled in accordance with Article 11, (c) the packaging is accompanied by the required documents; (d) the manufacturer has complied with the requirements set out in Article 13(5) and (6). Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.		
3. Importers shall indicate on the packaging their name and their		

Deadline: 31.07.23

registered trade name or registered trade mark as well as the postal address, and, where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided via the data carrier or in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.		
4. Importers shall ensure that information provided in accordance with paragraph 3 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
5. Importers shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.		
6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in		

Deadline: 31.07.23

conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.		
7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
8. Importers shall, for ~~40~~ 5 years after ~~the single-use~~ packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market,</u> keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.		
9. Importers shall, further to a reasoned request from a national		

Deadline: 31.07.23

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 in~~ electronic form and, on request, in paper form . The relevant documents shall be made available within 10 days of receipt of the request from the national authority.		
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 17 Obligations of distributors</i>		
1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this		

Regulation.		
2. Before making packaging available on the market, distributors shall verify the following: (a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the register of producers referred to in Article 4039; (b) the packaging is labelled in accordance with Article 11; (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.		
3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer or importer is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or until the manufacturer complies.		

Deadline: 31.07.23

Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.		
4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken. Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages,		

Deadline: 31.07.23

which can be easily understood by that authority. That information and documentation shall be provided in ~~paper or~~ electronic form and, on request, in paper form. Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 18 Obligations of fulfilment service providers</i>		
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.		
<i>Article 19 Case in which obligations of manufacturers apply to importers and distributors</i>		

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 134, where they place packaging on the market under their own name or trademark or modify packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation		
<i>Article 20 Identification of economic operators</i>		
1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following: (a) the identity of any economic operator that has supplied them with packaging; (b) the identity of any economic operator to which they have supplied packaging.		

2. Economic operators shall be able to provide the information referred to in paragraph 1(a) for ~~40~~ 5 years after they have been supplied with the <u>single-use</u> packaging and ~~for~~ 10 years after they have <u>been</u> supplied <u>a reusable</u> packaging. <u>Economic operators shall be able to provide the information referred to in paragraph 1(b) 5 years after they have supplied the single-use packaging and for 10 years after they have supplied the reusable packaging.</u>		
<i>Article 49 Information on prevention and management of packaging waste</i>		
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 41(1), producer responsibility organisations shall make available to end-users, in particular consumers, the following information regarding the prevention and		

management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State: (a) the role of end-users in contributing to waste prevention, including any best practices; (b) re-use arrangements available for packaging; (c) the role of end-users in contributing to the separate collection of packaging waste materials, including handling of packaging containing hazardous products or waste; (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product; (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single-use packaging, in particular plastic carrier bags; (f) the composting properties and appropriate waste management options for compostable packaging. <u>Consumers shall be informed that compostable packaging</u>	

<u>is compostable in industrially controlled conditions and should not be thrown in home compost or nature.</u> Obligations under paragraph 1(d) shall be applicable as of <i>/OP: Please insert the date = 42 months after the entry into force of this Regulation/</i> or the date of application of Article 11, whichever is the latest.		
2. The information referred to in paragraph 1 shall be up to date and provided by means of: (a) a website or other means of electronic communication; (b) public information; (c) education programmes and campaigns; (d) signposting in a language, or languages, which can be easily understood by users and consumers.		
3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		

Deadline: 31.07.23

Cluster 9 Conformity		
Recitals corresponding cluster 9		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market compl~~y~~<u>ies</u> with this Regulation, whether imported as ~~self-standing~~ standalone packaging or ~~in as part of in~~ association with a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		

Deadline: 31.07.23

(55) 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary		

Deadline: 31.07.23

information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		
<i>Article 30 Test, measurement and calculation methods</i>		

Deadline: 31.07.23

For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, ~~and 21~~ and 29 24 of this Regulation, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.		
<i>Article 31 Presumption of conformity</i>		
1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been published in the <i>Official Journal of the European Union</i> , shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.		

Deadline: 31.07.23

2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Articles 5 to 11 and 24.		
<i>Article 32 Common ~~technical~~ technical specifications</i>		
1. Packaging which is in conformity with common technical specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 24 to the extent that those requirements are covered by those common technical specifications or parts thereof.		
2. The Commission may, by means of implementing acts, establish common technical specifications for the		

requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled: (a) there is no harmonised standard covering the relevant requirements the reference of which is published in the <i>Official Journal of the European Union</i> or the standard does not satisfy the requirements it aims to cover; and (b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled: (i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed; (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the standards requested: • are not adopted within the deadline set in the request; • do not comply with the request; or		

• are not fully in line with the requirements they aim to cover. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>2a. Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.</u>		
3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard <u>are</u> published in the <i>Official Journal of the European Union</i>, the Commission shall assess whether implementing acts referred to in paragraph 2, or parts thereof which cover the same requirements set out in Articles 5 to 11 and Article 24 need to be repealed or		

Deadline: 31.07.23

amended.		
3a. <u>When a Member State considers that a common specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.</u>		
<i>Article 33 Conformity assessment procedure</i>		
Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.		

Deadline: 31.07.23

<i>Article 34 EU declaration of conformity</i>		
1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.		
2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed on the market or made available on the market.		
3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of		

Deadline: 31.07.23

conformity, a single EU declaration of conformity shall, where appropriate , be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.		
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.		
<u>ANNEX VII</u>		

<u>CONFORMITY ASSESSMENT PROCEDURE</u>		
Module A Internal production control		
1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and ~~5~~ 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to 10 of this Regulation that apply to them.		
2. Technical documentation		
The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the packaging. The technical		

documentation shall contain, wherever applicable, at least the following elements: (a) a general description of the packaging and of its intended use, (b) conceptual design, and manufacturing drawings and materials schemes of components, etc. (a) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging, (b) a list of: (i) the harmonised standards, referred to in Article 31, applied in full or in part (ii) the common technical specifications, referred to in Article 32, applied in full or in part (iii) other relevant technical specifications used for measurement or calculation purposes, (iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied, ~~(iv)~~ in the event of harmonised standards and/or common	

Deadline: 31.07.23

technical specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1. (c) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and, (d) test reports.		
3. Manufacturing The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.		
4. Declaration of conformity The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the packaging has been placed on the market.		

Deadline: 31.07.23

The declaration of conformity shall identify the packaging for which it has been drawn up. A copy of the declaration of conformity shall be made available to the relevant authorities upon request.		
5. Authorised representative The manufacturer's obligations set out in point 4 as regards keeping of the technical documentation may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.		
<u>ANNEX VIII</u> <u>EU DECLARATION OF CONFORMITY NO* ...</u>		
1. No.... (unique identification of the packaging):		

Deadline: 31.07.23

2. Name and address of the manufacturer and, where applicable, its authorised representative.		
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.		
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.		
5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).		
6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.		

Deadline: 31.07.23

7. ~~The~~ Where applicable, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).		
8. Additional information Signed for and on behalf of: (place and date of issue): (name, function) (signature) * (identification number of the declaration)		
Cluster 10 Safeguard procedures		
Recitals corresponding cluster 10		

(83) Regulation (EC) No 765/2008 of the European Parliament and of the Council^[1] 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. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore,		

Regulation (EU) 2019/1020 of the European Parliament and of the Council^[1] setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation. The market surveillance mechanisms laid down by Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
~~(124)~~ Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability		

requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.		
(131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS) and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to		

Deadline: 31.07.23

identify packaging that may correspond to such a prohibition measure. The ~~electronic~~ ~~Electronic System~~ Customs Risk Management ~~Control~~ System (CRMS) set out in Article 36 of Commission Regulation (EU) 2447/2015, without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.		
(132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts the power to adopt implementing acts in accordance with		

Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for that interconnection.		
(133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical		

Deadline: 31.07.23

information, including relevant international standards.		
<i>Article 52 Procedure for dealing with packaging presenting a risk at national level</i>		
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 requirements laid down in this Regulation that are relevant to the risk. The relevant economic operators shall cooperate as necessary with the market surveillance authorities. Where, in the course of that evaluation, the market surveillance authorities find that the packaging does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective measures, within a reasonable period prescribed by the market surveillance authorities which is		

Deadline: 31.07.23

commensurate with the nature and, where relevant the degree of the non-compliance, to bring the packaging in compliance with those requirements.		
2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions, which they have required the economic operator to take.		

Deadline: 31.07.23

4. 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.		
5. Where the relevant economic operator does not take adequate corrective measures within the period referred to in paragraph 1, second subparagraph, or the non-compliance persists, the market surveillance authorities shall take all appropriate provisional measures to prohibit the making available of the packaging on their national market, to withdraw the packaging from that market or to recall it. The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.		
6. The information to the Commission and the other Member States referred to in paragraph 5 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 and, where applicable, the information referred to in Article 55 4–(1). The market surveillance authorities shall also indicate whether the non-compliance is due to either of the following: (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation; (b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.		
7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the		

Deadline: 31.07.23

adopted national measure, of their objections.		
8. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Provisional measures may provide for a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.		
9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.		
<i>Article 53 Union safeguard procedure</i>		

1. Where, on completion of the procedure set out in Article 52(3) (5) and (6) (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 by means of an implementing act whether the national measure is justified or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State		

Deadline: 31.07.23

concerned shall withdraw that measure.		
3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.		
4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.		
<i>Article 54 Compliant packaging which presents a risk</i>		
1. Where, having carried out an evaluation under Article 52, a		

Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of risk, to ensure that the packaging concerned, when placed on the market, no longer presents that risk, ~~to withdraw the packaging from the market or to recall it.~~		
2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		

Deadline: 31.07.23

3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		
4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the packaging, the nature of the risk involved and the nature and duration of the national measures taken.		
5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, propose appropriate measures.		

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3). On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 589(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.		
<i>Article 55 Controls on packaging entering the Union market</i>		
1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article 52(5) (4)—of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the		

Deadline: 31.07.23

non- compliant packaging to which the measures apply and, in case of packaged product, the product itself.		
1a. The authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.		
2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.		
3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article 52(~~56~~) to the environment referred to in paragraph 2 ~~3~~ . That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 4 ~~5~~ .		

4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the implementation arrangements for paragraph 3 4– including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 4–. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).		
<i>Article 56 Formal non-compliance</i>		
1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned: (a) the EU declaration of conformity has not been drawn up (b) the EU declaration of conformity has not been drawn up correctly; (c) the QR code or data carrier referred to in Article 11 do not		

provide access to the required information in accordance with that Article; (d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors; (e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete; (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled; (g) the requirements on restrictions on uses of certain packaging formats and on excessive packaging set out in Articles 21 and 22 are not complied with; (h) in relation to reusable packaging, the requirements on the establishment, operation and participation in a system for re-use referred to in Article 24 are not fulfilled; (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled; (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled; (k) the re-use and refill targets in Article 26 are not achieved.		
2. Where the non-compliance referred to in paragraph 1,		

points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made available on the market or ensure that it is recalled or withdrawn from the market. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.		
Cluster 11 Final Chapters		
Recitals corresponding cluster 11		
(134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its		

scope. The requirements ~~the requirements~~ related to the plastic recycled plastic content for plastic beverage bottles as of 1 January 2030 should be deleted from Directive (EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted. <u>~~As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.~~</u>		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~C~~ertain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (~~e.g.~~ <u>i.e.</u> plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>~~with the main purpose of that Directive being to prevent littering and its environmental impact.~~</u> Directive (EU) 2019/904 is a <i>lex</i>		

<i>specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, ~~unless specifically provided otherwise in this Regulation.~~ <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.</u> <u>Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the</u>		

<u>consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<u>(134bis) As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		

Deadline: 31.07.23

(135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability requirements, the economic operators placing non-compliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.		
(136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report		

Deadline: 31.07.23

on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.		
(137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.		
(138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC		

Deadline: 31.07.23

should therefore be repealed.		
(139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this ~~Directive~~ Regulation should be deferred.		
(140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application of the system of own resources of the Union with regard to the own resource based on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.		

(141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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.		
<i>Article 58 Exercise of the delegation</i>		
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		

2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~, Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of ~~ten~~ five years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period.		
3. The delegation of power referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall		

Deadline: 31.07.23

take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force		
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.		
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
6. A delegated act adopted pursuant to Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ ,		

Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 59 Committee procedure</i>		
1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 4 of		

Deadline: 31.07.23

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 in respect of the implementing powers referred to in Article 72, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.~~ <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 55, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.</u>		
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article		

5 of that Regulation, shall apply.		
<i>Article 60 Amendments to Regulation (EU) 2019/1020</i>		
Regulation (EU) 2019/1020 is amended as follows: (a) Annex I is amended as follows: (i) point 9 is deleted; (ii) the following points are added: 'X [<i>OP Please insert the next consecutive number</i>] Directive (EU) 2019/904 of the European ~~Parliament~~ Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1); ~~'X [<i>OP Please insert the next consecutive number</i>] Regulation (EU)...~~ on packaging and packaging waste, amending		

Deadline: 31.07.23

Regulation (EU) 2019/1020, and repealing Directive 94/62/EC [for the Publications Office to fill in the OJ publication details].		
(b) in Annex II, point 8 is deleted.		
<i>Article 61</i> <i>Amendments to Directive (EU) 2019/904</i>		
Directive (EU) 2019/904 is amended as follows: <u>(aa) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’</u> <u>Article 22(4a) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards single use plastic packaging listed in Annex V point 3.</u> <u>[Article 26(2) and (3) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u> <u>[Article 45(4) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use</u>		

<u>plastic packaging</u> (a) in Article 6(5), points (a) and point (b), is are deleted as of 1 January 2030; (b) in Article 13(1), point (e), is deleted as of 1 January 2030; (c) Article 13(3) is be replaced by ‘3. The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’		

<i>Article 62 Penalties</i>		
1. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ~~Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator.~~		
2. Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator. Where the legal system of the Member State does not provide for administrative fines, the first paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national		

Deadline: 31.07.23

courts, while ensuring that those legal remedies are effective and have equivalent effect to the administrative fines referred to in that paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.		
3. Member States shall, by [<i>OP: please insert the date = 1 year after the date of entry into force of this Regulation</i>], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 63 Evaluation</i>		
By [<i>OP: Please insert the date = 8 years after the date of application of this Regulation</i>], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the		

environmental sustainability of packaging. The Commission shall present a report on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the Commission with the information necessary for the preparation of that report.		
<i>Article 64 Repeal and transitional provisions</i>		
Directive 94/62/EC is repealed with effect from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. However, the following transitional provisions shall apply: (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = 42 months after the date of entry into force of this Regulation]; (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the		

<i>calendar year following 36 months after the date entry into force of this Regulation</i>]; (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the same calendar year ~~following in which the period of~~ 36 months after the date ~~of~~ entry into force ~~ends of this Regulation~~], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months after the date entry into force of this Regulation]. <u>(ca) Commission Decision 2001/171/EC and Commission Decision 2009/292/EC shall remain into force and continue to apply until repealed by delegated acts adopted by the Commission adopted pursuant to Article 5(5a) of this Regulation.</u> References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.		

<i>Article 65 Entry into force and application</i>			
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States.			
<u>ANNEX XIII</u> <u>CORRELATION TABLE</u>			
<i>Directive 94/62/EC</i>	<i>This Regulation</i>		
Article 1(1)	Article 1(1-2)		
Article 1(2)	Article 1(3)		
Article 2(1)	Article 2(1)		
Article 2(2)	Article 2(2)		
Article 3(1), first subparagraph	Article 3(1)		
Article 3(1), second subparagraph, point (a)	Article 3(2)		
Article 3(1), second subparagraph, (b)	Article 3(3)		

Article 3(1), second subparagraph, point (c)	Article 3(4)		
Article 3(1), third subparagraph, point (i)	Article 3(1)(a)		
Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)		
Article 3(1), third subparagraph, point (iii)	Article 3(1)(b-c)		
Article 3(1a)	Article 3(43)		
Article 3(1b)	Article 3(44)		
Article 3(1c)	Article 3(45)		
Article 3(1d)	Article 3(46)		
Article 3(1e)	---		
Article 3(2)	Article 3(20)		
Article 3(2a)	Article 10(1)		
Article 3(2b)	Article 3(19)		
Article 3(2c)	Article 3(60) and fourth subparagraph of Article 3		
Article 3(11)	Article 3(8)		
Article 3(12)	---		
Article 4(1), first subparagraph	Article 38(2)		
Article 4(1), second subparagraph	---		
Article 4(1), third subparagraph	Article 38(3)		
Article 4(1a), first subparagraph	Article 29(1), first subparagraph		
Article 4(1a), second subparagraph	Article 29(2), second sentence		
Article 4(1a), third subparagraph	Article 29(2), first sentence		
Article 4(1a), fourth	Article 29(1), second		

subparagraph, point (a)	subparagraph		
Article 4(1a), fourth subparagraph, point (b)	Article 29(4)		
Article 4(1a), fifth subparagraph	Article 50(1), point (b)		
Article 4(1a), sixth subparagraph	Article 50(7), point (b)		
Article 4(1b)	Article 29(3)		
Article 4(1c)	---		
Article 4(2)	---		
Article 5(1)	Article 45(1)		
Article 5(1)(a)	Article 45(2), point (a)		
Article 5(1)(b)	Article 26(1-10)		
Article 5(1)(c)	Article 45(2), point (b)		
Article 5(1)(d)	Article 45(2) point (c)		
Article 5(2), first subparagraph	Article 48(1), first subparagraph		
Article 5(2), second subparagraph, point (a)	Article 48(1), second subparagraph, point (a)		
Article 5(2), second subparagraph, point (b)	Article 48(1), second subparagraph, point (b)		
Article 5(2), third subparagraph	Article 48(1), third subparagraph		
Article 5(3)	Article 48(2)		
Article 5(4)	Article 50(7), point (a)		
Article 5(5)	---		
Article 6(1)(a)	---		
Article 6(1)(b)	---		
Article 6(1)(c)	---		
Article 6(1)(d)	---		
Article 6(1)(e)(i)	---		

Deadline: 31.07.23

Article 6(1)(e)(ii)	---		
Article 6(1)(e)(iii)	---		
Article 6(1)(e)(iv)	---		
Article 6(1)(e)(v)	---		
Article 6(1)(f)	Article 46(1)(a)		
Article 6(1)(g)(i)	Article 46(1)(b)(i)		
Article 6(1)(g)(ii)	Article 46(1)(b)(ii)		
Article 6(1)(g)(iii)	Article 46(1)(b)(iii)		
Article 6(1)(g)(iv)	Article 46(1)(b)(iv)		
Article 6(1)(g)(v)	Article 46(1)(b)(v)		
Article 6(1)(g)(vi)	Article 46(1)(b)(vi)		
Article 6(1)(h)	Article 46(1)(c)		
Article 6(1)(i)(i)	Article 46(1)(d)(i)		
Article 6(1)(i)(ii)	Article 46(1)(d)(ii)		
Article 6(1)(i)(iii)	Article 46(1)(d)(iii)		
Article 6(1)(i)(iv)	Article 46(1)(d)(iv)		
Article 6(1)(i)(v)	Article 46(1)(d)(v)		
Article 6(1)(i)(vi)	Article 46(1)(d)(vi)		
Article 6(1a)(a)	Article 46(2)(a)		
Article 6(1a)(b)	Article 46(2)(b)		
Article 6(1a)(c)	Article 46(2)(c)		
Article 6(1a)(d)	Article 46(2)(d)		
Article 6(1b)	Article 46(3)		
Article 6(1c)	Article 46(4)		
Article 6(4)(a)	Article 46(5)(a)		
Article 6(4)(b)	Article 46(5)(b)		
Article 6(6)	Article 49(2)		
Article 6(7)	---		
Article 6(10)	Article 46(6)		
Article 6(11)	---		

Deadline: 31.07.23

Article 6a(1)(a)	Article 47(2)
Article 6a(1)(b)	Article 47(3)
Article 6a(2)	Article 47(6)
Article 6a(2)(a)	Article 47(6)(a)
Article 6a(2)(b)	Article 47(6)(b)
Article 6a(3)	Article 47(7)
Article 6a(4)	Article 47(8)
Article 6a(5)	Article 47(9)
Article 6a(6)	Article 47(10)
Article 6a(7)	Article 47(11)
Article 6a(8)	Article 47(12)
Article 6a(9)	Article 50(7), point (a)
Article 6b	Article 36
Article 7(1)	Article 43(1) and (2)
Article 7(2)	Articles 39-42
Article 7(3)	Article 43(3)
Article 7(4)	Article 43(4)
Article 8(1)	Article 11
Article 8(2)	Article 11(1)
Article 8(3)	Article 11(4)
Article 8a	Article 11(1) and (5)
Article 9(1)	Articles 5-10
Article 9(2)(a)	Article 31
Article 9(2)(b)	---
Article 9(3)	---
Article 9(4)	---
Article 9(5)	---
Article 10	Article 31(2)
Article 11(1)	Article 5(2)
Article 11(2)	---

Deadline: 31.07.23

Article 11(3)	Article 5(5)		
Article 12(1)	Article 51(1)		
Article 12(2)	Article 51(2)		
Article 12(3a)	Articles 50(1) point (a), 50(3) point (a) and 50(4)		
Article 12(3b)	Article 50(5) and 50(6)		
Article 12(3c)	-		
Article 12(3d)	Article 50(7)		
Article 12(4)	Article 50(8)		
Article 12(6)	Article 50(8)		
Article 13, first subparagraph	Article 49(1)		
Article 13, second subparagraph	---		
Article 14	Article 37		
Article 15	Article 29, Article 38, Article 45		
Article 16(1)	---		
Article 16(2)	---		
Article 18	Article 4		
Article 19(1)	---		
Article 19(2)	---		
Article 20	---		
Article 20a(1)	---		
Article 20a(2)	---		
Article 20a(3)	---		
Article 21(1)	Article 59(1)		
Article 21(2), first subparagraph	Article 59(3), first subparagraph		
Article 21(2), second subparagraph	Article 59(3), second subparagraph		
Article 21a(1)	Article 58(1)		

Deadline: 31.07.23

Article 21a(2)	Article 58(2)		
Article 21a(3)	Article 58(3)		
Article 21a(4)	Article 58(4)		
Article 21a(5)	Article 58(5)		
Article 21a(6)	Article 58(6)		
Article 22(1)	---		
Article 22(2)	---		
Article 22(3)	---		
Article 22(3a), first subparagraph	---		
Article 22(3a), second subparagraph, point (a)	---		
Article 22(3a), second subparagraph, point (b)	---		
Article 22(3a), second subparagraph, point (c)	---		
Article 22(3a), second subparagraph, point (d)	---		
Article 22(3a), second subparagraph, point (e)	---		
Article 22(3a), second subparagraph, point (f)	---		
Article 22(4)	---		
Article 22(5)	---		
Article 23	---		
Article 24	---		
Article 25	---		
Annex I	Annex I		
Annex II, point 1	Articles 5, 6, 9 and 10 and Annexes II and IV		
Annex II, point 2	Article 10 and Annex IV		
Annex II, point 3(a)	Article 6 and Annex II		

Deadline: 31.07.23

Annex II, point 3(b)	---		
Annex II, point 3(c)	Articles 8 and 3(41) and Annex III		
Annex II, point 3(d)	Articles 8 and 3(41) and Annex II		
Annex III	Annex XII		
Annex IV	Annex XI		

IE COMMENTS



Council of the European Union
General Secretariat

Interinstitutional files:
2022/0396 (COD)

Brussels, 07 July 2023

WK 9513/2023 INIT

LIMITE

ENV
MI
ENT
IND

CONSOM
COMPET
CODEC
AGRI
FOOD

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

MEETING DOCUMENT

From: General Secretariat of the Council

To: Working Party on the Environment

Subject: Packaging and packaging waste: WPE of 14 July 2023: Steering note and text proposal by the Presidency

With a view to the Working Party on the Environment on 14 July 2023, delegations will find attached a steering note and a text proposal, prepared by the Presidency.

IE COMMENTS

WK 9513/2023 INIT

LIMITE

EN



Working party on the Environment

Presidency steering note for WPE 14 July 2023 Packaging and packaging waste Regulation

WPEs during PCY ES

As written on the document WK 9205/2023 INIT, the discussions in the following meetings under the Spanish Presidency will be structured into three main parts of the whole text, grouping the existing clusters as outlined as follows:

PART 1

- Cluster 1. Sustainability requirements
 - a. Definition of packaging (Article 3(1) – (5) and Annex I)
 - b. Substances in packaging (Article 5)
 - c. Recyclable packaging (Article 6, Annex II)
 - d. Recycled content (Article 7)
 - e. Compostable packaging (Article 8, Annex III)
- Cluster 3. Re-use
 - a. Reusable packaging (Articles 10, 23)
 - b. Re-use and refill (Articles 24-28, 45, Annex VI)
- Cluster 7. Green Public Procurement (Chapter IX (Article 57))

PART 2

- Cluster 5. General provisions including the legal basis (Articles 1,2,4)
- Cluster 2. Labelling (Chapter III)
 - a. Labelling of packaging (Article 11)
 - b. Labelling of waste receptacles (Article 12)
- Cluster 4. Waste prevention
 - a. Packaging minimisation and restrictions on excessive packaging (Articles 9, 21, Annex IV)
 - b. Restrictions on packaging formats (Article 22, Annex V)
 - c. Waste prevention targets and plastic bags reduction (Article 38, 29)

PART 3

- Cluster 6. Management of packaging waste
 - a. Waste management plan and general provisions (Articles 35-37)
 - b. Extended producer responsibility (Articles 39-42, Annex IX)
 - c. Deposit return systems and waste collection (Articles 43-44, Annex X)
 - d. Recycling (Articles 46-48, Annex XI)
 - e. Reporting (Articles 50-51, Annex XII)
- Cluster 8. Remaining obligations of economic operators (Articles 13-20, 49)
- Cluster 9. Conformity (Chapter VI, Annexes VII-VIII)
- Cluster 10. Safeguard procedures (Chapter VIII)
- Cluster 11. Final Chapters (Chapters X-XII, Annex XIII)

The Swedish Presidency, after having worked dividing the text in different clusters, produced a proposal for a compromise text of the Regulation (named “REV 01”), based on the comments that delegations raised during the previous WPEs. During the WPE meetings of the 22 and 23 of June 2023, this new “REV 01” was discussed. In order to advance the negotiations as swiftly as possible, the Spanish Presidency already invited all delegations to provide written comments with concrete proposals or amendments on the Part 1

IE COMMENTS

(cluster 1, 3 & 7) of the REV 01, with the deadline 29 of June (document WK 8604/2023 INIT). Comments on remaining parts (Part 2 and Part 3) are welcome by 31 July using the table that was provided on 4th of July (WK 9205/2023 INIT).

3

Steering note for WPE 14 July 2023

On 14 July 2023, the WPE will start the examination of the REV 01. The discussions will focus on PART1: **Cluster 1 – Sustainability requirements** (Articles 5, 6, 7, and 8 and Annex I,II, III) **Cluster 3 – Reuse** (Articles 10, 23-28, 45 and Annex VI) and **Cluster 7 – GPP** (Article 57), as well as recitals and definitions related to these clusters.

As outlined above, the discussions will be structured into **three main blocks**, one block per cluster. In each block, the Presidency has identified a number of key issues, which need to be discussed in order to go forward. For each issue the Presidency invites the delegations to express their views on the provisions, the proposed amendments or matters proposed for debate. Based on the previous discussions about flexibility versus harmonisation, delegations are also particularly invited to express for which Articles and specific paragraphs more flexibility is sought, as well as, in these cases, provide more information on the specific, national circumstances and examples that require this flexibility.

This Steering note includes the issues to be discussed during WPE on 14th of July. Annex I addresses proposals regarding minor or editorial changes on REV 01 based on delegations' comments.

Next step: The Presidency will welcome written comments after the meeting of the Working Party, and delegations are invited to provide these no later than on **31 July**.

1. CLUSTER 1: SUSTAINABILITY REQUIREMENTS

IE COMMENTS

A. Recitals and definitions

Based on delegations' comments, the Presidency proposes a change to clarify the following definition:

- Article 3(1)d Service packaging:

Currently:

3.1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, also referred to as 'service packaging'.

PRES proposal:

3.1.d) service packaging which means packaging designed and intended to be filled at the point of sale to dispense the product, such as carrier bags, trays, wrappings, plates, cups for beverages, among others.

According to definition of producer (Article 3.10), the responsibility for service packaging falls on:

- Manufacturer, importer or distributors of (empty) service packaging, or
- Final distributor (filler) who has service packaging designed or manufactured and makes it available for the first time under its own name or trademark.

The Presidency would like to know if delegations agree on this double possibility or prefer that for this kind of packaging the responsibility falls only on manufacturers, importers and distributors, since there are far fewer economic operators than those who fill and dispense the product with packaging service at the point of sale.

In addition, the Presidency would like to discuss possible changes in the following definition:

- Article 3(32) recycled at scale.

IE COMMENTS

Some minor changes have been addressed to take into account comments, made notably from the Commission, during the last WPE since their comments are aligned.

i) collected and sorted packaging waste which is collected, sorted and accepted for recycling by PROs or by producers, in case of individual compliance with EPR obligations, and there are established processes and ed

5

in through installed state-of-the-art infrastructure and established processes in actual systems proven in an operational environment, covering at least 75 % of the Union population of where the packaging is placed on the market. This includes such packaging waste exported from the Union for the purpose of waste management which can be considered as meeting that meets the requirements of Article 47(512);

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

...

Nevertheless taking into account the comments expressed by delegations, it is the Presidency understanding that further reflexion is needed regarding other parts of the provision:

PRES proposal:

i) collected and sorted packaging waste which is collected, sorted and accepted for recycling by PROs or by producers, in case of individual compliance with EPR obligations, and there are established processes and ed in through installed state-of-the-art infrastructure and established processes in actual systems proven in an operational environment, covering at least 75 % of the combined Union population of the Member States of where the packaging is made available placed on the market. This includes such packaging waste exported from the Union for the purpose of waste management which can be considered as meeting that meets the requirements of Article 47(512);

IE COMMENTS

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

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

6

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

B. Article 5: Requirements for substances in packaging

Based on Delegations' comments, the following change has been addressed:

□ Article 5.1b.b) for the sake of clarity and better alignment with the General Approach on ESPR:

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

Based on expressed comments, the Presidency would like to ask delegations if they want a new provision, for exceptional cases, in a new point c) in Article 5(5) establishing that the Commission should present a proposal to restrict substances of concern (for example PFAS)

IE COMMENTS

in packaging, if an EU restriction on PFAS in packaging under the REACH has not been adopted on duly time.

C. Article 6: Recyclable packaging and Annex I and II

Based on comments, the Presidency proposes the following a clarifying change:

□ Article 6(8), third sentence:

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

7

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

In addition, some comments have been received about the possibility of simplifying some parts of Article 6 as it is understood that it is already addressed in the definition of high quality recycling.

D. Article 7: Minimum recycled content in plastic packaging

Based on the expressed comments and the discussions regarding biobased plastics, the Presidency would like to explore different alternatives and ask delegations whether they would like to:

- Option A: Not to include any specific provision or exception for them in art. 7 and if so, promote bioplastics through the modulation of EPR fees or other measures.
- Option B: to establish specific and separate objectives in another article.

IE COMMENTS

‘Recycled content targets’ is intended to stimulate collection, sorting, and recycling efforts and to reduce our reliance on primary raw materials. The decoupling from fossil resources is a separate objective or ambition, so that biobased plastic should not be used to reach recycled content targets.

- Option C: to amend the Article in a way to define a “hierarchy” where recycled content should be the first choice and biobased plastic the second choice (used as a “back-up”). The reasons for this are that the use of recycled content is not only substituting the use of fossil-based plastic but also it is a legal instrument to increase high-quality recycling and material circularity. In this case, it is the Presidency understanding that the proposed objectives would need to be reviewed.
- Option D: to except them from art 7, meaning that packaging made from biobased plastics do not have to fulfil the requirements in minimum percentage of recycled content.

8

In any case, biobased plastics shall meet strict sustainability criteria, which are yet to be developed.

E. Article 8:

For compostable packaging, the discussions in previous WPEs have been focussed on the flexibility for the Member States; the feasibility of compostable packaging; the types of packaging to be included; and the inclusion of home composting. The Swedish Presidency introduced several changes in this sense in REV_1.

Many Member States have home composting, so it is the Presidency understanding that this should be addressed, especially if infrastructures for this are in place and if national standards are met for this purpose. Therefore, packaging referred to in Article 3(1)(f) and sticky labels attached to fruit and vegetables shall be home compostable, which nevertheless means that they can also go into industrial composting facilities and anaerobic digestion bio-waste facilities and that can be treated without problem in them.

IE COMMENTS

The Presidency would like to know the views of the delegations regarding Article 8 and in particular:

- the inclusion that packaging referred to in Article 3(1) point (f) and sticky labels attached to fruit and vegetables shall be, at least, home compostable.
- the definitions of compostable packaging (Article 3(41)) and home compostable packaging (Article 3(41a)).
- new paragraph (5a) in order to ensure timely and appropriate standardisation.

At the meeting of the WPE, the Presidency would like to know:

- **the views of delegations regarding the proposed changes on the definitions of “serving packaging” and “recycled at scale”**

We maintain scrutiny reservation regarding definition of service packaging.

Regarding ‘recycled at scale’ we have grave reservations about the proposed text, which does not take into consideration EPR financial models which exist in a number of MSs where **the EPR never actually takes ownership of the packaging**.

We welcome the proposal from DE on a definition for ‘recycled at scale’ which moves away from population and towards quantity of packaging actually recycled as a more relevant metric. While we have some concerns around how the definition of ‘high quality recycling’ may be restrictive in this context (e.g. would FCM have to be recycled back into FCM), we feel the DE proposal has significant merit and warrants further discussion by the WPE and national experts.

- **the views of delegations regarding other definitions of cluster 1, proposed in REV 01, such as high-quality recycling among others.**

We would welcome some clarity around the definition of “high-quality recycling”, particularly in the context of FCM. The specific requirements of FCM legislation may impact on material that can be substituted for primary raw materials in that specific application, and there appear to be maximum limits on the amount of recycled content that can be added to plastics used in the manufacture of FCM.

IE COMMENTS

- Regarding “Article 5” the views of delegations about a new provision, of exceptional use, regarding the Commission and the restriction of substances of concern in packaging if REACH has not been updated.

Regarding “Article 6” the views of delegations about the changes proposed.

- We would like to ask what happens if assessment of different components yields different results i.e. if one component is compliant and another not?

Regarding “Article 7” the views of delegations about biobased plastic approach.

- We prefer option A part one – “Not to include any specific provision or exception for them”.

- Regarding “Article 8” the views of delegations about the inclusion of home composting.

We would prefer to not include home composting to reduce the potential for consumer confusion among other things.

2. CLUSTER 3: REUSE AND REFILL

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

In previous WPE, the Commission explained that a non-paper explaining the different implications of reuse vs. single use is expected to be published. The preliminary results of this study could be presented in a WPE after the summer break. However, the Presidency is of the opinion that further discussion is necessary at this point.

F. Article 25

In order to include the retail sector in the refill targets, the Presidency would like to know the opinion of delegations about including a percentage of minimum sales area of at least

IE COMMENTS

400 m² by 2030 (e.g. 10%) and 2040 (e.g. 30%) for economic operators who supply products to end users dedicated to systems designed to deliver the products sold without packaging, including bulk sales, so that end users can purchase those products through refill of existing containers.

G. Article 26

10

The Presidency would like to know the opinion of delegations about a separated accountability and targets for reuse and refill and if they think that it would be affordable for final distributor to reach this degree of granularity in data collection.

On the other hand, it may be necessary to discuss the need to include the definition of ‘take away’, especially for the purposes of reuse and refill targets and to gain legal certainty in articles 26(2) and 26(3). In this sense, a starting point would be the one proposed by the sector:

‘take-away’ means items purchased at attended points of sale , including cold or hot beverages filled into a container at the point of sale and ready-prepared food, intended for immediate consumption without the need for any further preparation, and typically consumed from the receptacle;

Based on the comments received, the Presidency would like to know if delegations are in favor or against the inclusion of wine within the scope of the reuse targets, since they are products of a purely export sector and many of them are also registered as Geographical Indications (GI) and must be packaged in a specific region. Alternatively, the presidency proposes to be able to exempt economic operators in certain cases (see Article 26(14) below).

In order to give more flexibility to Member States to adjust the threshold in Article 26(14) and 26(15) according to national conditions, it is proposed to change the wording from “shall” to “may”. Also adding that the proposed thresholds are seen as a maximum have the potential to increase the re-use.

IE COMMENTS

Moreover, to take into account those economic operators (e.g. wineries) that have a single or very small product portfolio and are mainly export-oriented, a new exception to compliance with reuse targets is proposed when exports exceed a sales percentage.

Consequently, based on the comments received, the Presidency proposes the following changes:

14. Economic operators ~~shall~~may be exempted from the obligation to meet the targets in paragraphs 2 to 10 if, during a calendar year, they:

11

- (a) placed not more than 1000 kg of packaging on the market;
- (b) **exports exceed 50% of total sales units;** or
- (c) complied with the definition of micro-~~enterprise company~~ in accordance with rules set out in the Commission Recommendation 2003/361, **in the version publicly available** ~~as applicable~~ on [OP: Please insert the date = the date of entry into force of this Regulation].

Points a, b and c serve as a maximum threshold, Member States could, through the TRIS notification procedure, lower the threshold.

15. Economic operators ~~shall~~may be exempted from the obligation to meet the targets in paragraphs 2 to 6 if, during a calendar year, they have a sales area of not more than 100 m², including also all storage and dispatch areas.

The area of 100 m² serves as a maximum threshold, Member States could, through the TRIS notification procedure, lower the threshold.

H. Article 27

Based on the comments received, the Presidency would like to know the views of delegations regarding the possibility of basing reuse calculations for beverages on the volume of product provided by reusable packaging or refillable systems or in an "equivalent unit".

IE COMMENTS

This methodology would make it possible to adequately account for larger capacity reusable packaging formats for beverage and allows a better approximation for the calculation of the refill targets.

At the meeting of the WPE, the Presidency would like to know:

- ☐ **The views of delegations about a percentage of minimum sales area of at least 400 m² by 2030 (e.g. 10%) and 2040 (e.g. 30%), for economic operators who supply products to end users, dedicated to systems designed to deliver the products sold without packaging, including bulk sales, so that end users can purchase those products through refill of existing containers.**

We maintain scrutiny reservation on this proposal pending provision of further clarity on what kind of products and outlets are in scope and support the query from DK raised during the meeting regarding “kegs”.

12

- ☐ **the views of delegations about a separated accountability and targets for reuse and refill and if they think that it would be affordable for final distributor to reach this degree of granularity in data collection.**

Targets for reuse and refill should be kept separate.

- ☐ **the views of delegations about including a definition of ‘take away’, especially for the purposes of reuse and refill targets. And the opinion about the definition proposed.**

The wording of the definition mirrors that of the SUPD, however we maintain scrutiny reservation for now.

the views of delegations about proposed changes in Article 26 (14) and 26 (15).

- ☐ **We welcome and support these changes.**

- ☐ **the views of delegations regarding the possibility of basing reuse calculations for beverages on the volume of product provided by reusable packaging or refillable systems or in an "equivalent unit".**

We support allowing the basing of reuse calculations for beverages on volume of product, to adequately allow for larger capacity reusable packaging formats such as kegs.

3. CLUSTER 7: GPP

Based on delegations' comments, the Presidency understands that there is a concern about the scope of these provisions. Some proposals have been received on this as well as on issues regarding terminology and exceptions, among others.

The Presidency will work on this, taking into account delegation's comments, and will come back with clarifications and proposals of changes if needed, in the next WPE where this cluster will be addressed.

ANNEX I Steering note

2023-07-07

LIST OF PROPOSED MINOR OR EDITORIAL CHANGES:

CLUSTER 1: SUSTAINABILITY REQUIREMENTS

Based on delegations' comments, the Presidency proposes some editorial and minor changes as follows:

Recitals:

- (20a) Change to address redrafting issues.

~~In this Regulation the term “mMaterial recycling” is not intended to be the same as the as it is defined in this regulation is complementing the definitions of recycling and material recovery in the Directive 2008/98/EC, as defined in Directive 2008/98/EC. “Material recycling” should instead mean any recovery operation by which waste materials are reprocessed into materials or substances for the original or other purposes and does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations. As opposed to the definition of “recycling”, “material recycling” should not include biological treatment of waste. Whereas mMaterial recycling certainly maintains the resources in circulation within the material economy and should therefore not include biological treatment of waste, high-quality recycling preserves the characteristics of materials, which make them most useful. The definition of material recycling does not affect the calculation of the recycling targets set for Member States under this Regulation. These targets and their calculation are based on the definition of “recycling” under as it is defined in the Directive 2008/98/EC.~~

- (29) Change to be consistent with art. 7.1 and 7.2 of REV1.

~~I In order to prevent barriers to on the internal market and ensure the efficient implementation of the obligations, economic operators should ensure that the plastic part of in packaging, should contain a certain minimum percentage of recycled content recovered from post-consumer plastic waste, per packaging format, manufacturing plant and year over a period of three~~

IE COMMENTS

~~months~~ each unit of packaging contains a certain minimum percentage of recycled content recovered from post-consumer plastic waste;

2

- (30) Editorial change.

There should be an incentive for economic operators to increase the recycled content in the plastic part of packaging. ~~The most appropriate means~~ **One way** to achieve this is to ensure the modulation of extended producer responsibility fees based on the percentage of recycled content in packaging. The fee modulation **in such case** should be based on common rules for the calculation and verification of the recycled content contained in such packaging.

- (39) Editorial change to name legislation accurately.

It should be recalled that all ~~compostable packaging constituting a food contact material is~~ **packaging in contact with food, including compostable packaging, has** to meet the requirements ~~set out in~~ **under the scope of** Regulation (EC) No 1935/2004 **on materials and articles intended to** ~~brought~~ **come** into contact with food or already in contact with food. **Where appropriate, the documentation and information required according to the legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.**

- (45) word change : ‘compostable’ instead of ‘biodegradable’.

To facilitate consumers in the sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, **but only biodegradable compostable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. It is only specifically homecompostable packaging which is suitable for home-composting.** This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.

IE COMMENTS

Definitions:

- Art 3.(17) Consumer. Editorial change to align with the definition lay down in the E Commerce Directive (Directive 2000/31/EC).

3

Consumer: any natural person who is are acting for purposes which are outside his or her trade, business or profession;

Articles:

- Art 6.4.a) minor change regarding redrafting comments

6.4. By 1 January 2028 ~~t~~The Commission is empowered to adopt delegated acts in accordance with Article 58 to supplement this Regulation in order to establish:

(a) design for recycling criteria and recycling performance grades based on the ~~criteria and~~ parameters listed in Table ~~22a~~ of Annex II for packaging categories listed in Table 1 of that Annex. Such recycling criteria and performance grade~~and that will~~ shall take into account the ability of packaging waste to be separated into different material streams for recycling, sorted and recycled, so that the resulting secondary raw materials are of sufficient quality compared to the original material and can be used to substitute the primary raw materials for packaging,~~as well as~~

- Art 7.6. minor changes regarding redrafting comments.

By 31 December 2026, the Commission is empowered to adopt implementing acts establishing the methodology for the calculation and verification of the percentage of recycled content referred to in paragraph 1 and 2 of this Article ~~recovered from post-consumer plastic waste, per unit of plastic packaging, per packaging type and format as referred to in Annex II, Table 1, manufacturing plant and three months year, and the format for the technical documentation referred to in Annex VII. In advance of the adoption of these~~ When adopting ~~the~~ implementing acts, the Commission ~~will examine~~ shall assess, in view of the available recycling technologies, their economic and environmental performance, including the quality of the output,

IE COMMENTS

the availability of the ~~incoming~~ waste, the energy need and greenhouse gas emissions. On the basis of such assessment, the Commission may include sustainability criteria for the recycling technologies in the methodology established in the implementing act under the previous subparagraph ~~Based on this examination, the Commission might integrate sustainability criteria for the different recycling technologies into the methodology mentioned above.~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

- Art. 7. 10) minor changes regarding redrafting comment.

4

10. Where justified by the lack of availability or excessive prices of specific recycled plastics that may have adverse effects on human or animal health, security of food supply or the environment, making compliance with the minimum percentages of recycled content set out in paragraphs 1 and 2 excessively difficult, the Commission shall be empowered to adopt a delegated act in accordance with Article 58 to amend paragraphs 1 and 2 by adjusting the minimum percentages accordingly. In evaluating the justification of such adjustment, the Commission shall assess requests from natural or legal persons to be accompanied by relevant information and data on the market situation for this post-consumer plastic waste and best available evidence regarding the related risks to human or animal health, to the security of food supply or to the environment. Commission shall adopt the delegated act only in exceptional cases when ~~The empowerment is restricted to very limited cases in which severe adverse effects would~~ may occur on human or animal health, or the security of food supply or to the environment. ~~one or more of the mentioned objects of protection.~~

- Art 8.5a) changes regarding redrafting comment.

8.5a) 12 months after entry into force of this Regulation, the Commission shall request the European standardisation organisations to prepare or update harmonised standards laying down the detailed technical specifications of the requirements on compostable and home compostable packaging in this Article. When doing so, the Commission ~~should~~ shall request that, in line with the latest scientific and technological developments, parameters such as retention times, temperatures and stirring, which reflect the actual conditions in home composts and in bio-waste treatment facilities, including anaerobic digestion processes, are taken into account. The Commission shall request that ~~Those~~ standards ~~shall also~~ include verification that the compostable packaging undergoing the biological decomposition subject to the specified parameters, results ultimately in conversion into carbon dioxide or, in absence of oxygen, methane, mineral salts, biomass and water.

Annex II table 2

IE COMMENTS

- Table 2 . Grade B- Changes to address delegations' comment:

Grade B	higher or equal to 90 %	The packaging has some minor recyclability issues that slightly affect the quality of the generated secondary raw material. However, the majority of the generated secondary raw material from this packaging can still be used in packaging applications. <u>Can be Equals</u> to high-quality recycling.

- Table 2a . Change to address delegations' comment:

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

The list in Table 2a will be used as a basis when defining design for recycling criteria (as set out in Article 6(4)). The design for recycling criteria will then be used in order to set the calculations leading to the performance grades listed in Table 2. In addition, ~~The parameters outlined in Table 2a shall be considered, at least, when defining design for~~

5

~~recycling criteria for the listed in Table 2.~~ The assessment of these parameters shall consider:

- separability of any component of packaging, either manually by consumers or in processing plants,
- efficiency of sorting and recycling processes e.g. yield, and
- Expected evolution over 5 years of sorting and recycling technologies (to address the aspect if a packaging cannot be sorted today but it might be sortable in 2 years), and
- preservation of functionality of secondary raw materials enabling the substitution of primary raw materials.

CLUSTER 3: REUSE

Based on delegations' comments, the Presidency proposes the following change:

Article

- Article 23. Grammatical change to address delegations' comment.

Art. 23 ~~Any~~ The Economic operators who place makes a reusable...

IE COMMENTS



Council of the European Union
General Secretariat

Brussels, 04 July 2023

Interinstitutional files:
2022/0396 (COD)

WK 9205/2023 INIT

LIMITE

ENV
MI
ENT
IND

CONSOM
COMPET
CODEC
AGRI

FOOD

*This is a paper intended for a specific community of recipients.
Handling and further distribution are under the sole responsibility of
community members.*

REQUEST FOR CONTRIBUTION

From: General Secretariat of the Council

To: Working Party on the Environment

Subject: Packaging and packaging waste: Follow-up to the WPE meeting on 22 and 23 June 2023: CALL FOR COMMENTS

Following the above WPE meeting, delegations are kindly invited to send comments and drafting suggestions on clusters 5, 2, 4, 6, 8, 9, 10 and 11 to the Presidency

([redacted] ; [redacted] ; [redacted] ;
[redacted] ; [redacted] ; [redacted] ; [redacted]), the
Commission ([redacted] ; [redacted]), with
copy to the Council Secretariat ([redacted] ;
[redacted] ; [redacted]), by **Monday 31**
July, cob.

IE COMMENTS

WK 9205/2023 INIT

LIMITE

EN



ANNEX I – PART 2 OF THE TEXT REV01. CLUSTER 2, 4 AND 5.

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 2,4 and 5 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

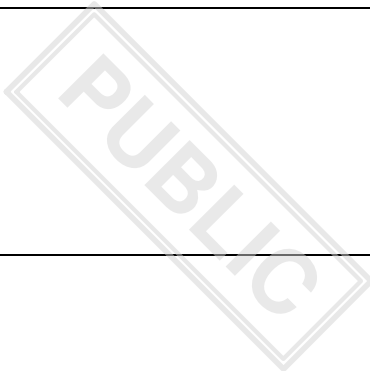
REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC		

REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 2 – Labelling, marking and information requirements		
<i>Recitals corresponding cluster 2:</i>		
(44) It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles.		

(45) To facilitate consumers in the sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid	To facilitate consumers ~~in the~~ in the sorting and disposing of.....	Editorial

consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. <u>It is only specifically home-compostable packaging which is suitable for home-composting.</u> This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.		

(46) Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the		
proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.		
(47) In order to inform end-users about reusability, availability of systems for re-use and location of collection points as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code <u>may contain information which should also</u> facilitates tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale.		

(48) There should be no multiplication of labels on packaging. In order to avoid this, where other Union legislation requires information on the packaged product to be available digitally through a data carrier, the information		

required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. <u>Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable promoting circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging circularity.</u>		

(49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It should be possible to identify packaging included in the extended producer responsibility scheme by means of an accreditation symbol throughout the territory of that system. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging. To this end, it could be considered that the Green Dot symbol, which is used in some Member States to signify that a producer has made a financial contribution to a national packaging recovery system¹, could mislead consumers to believe that packaging bearing such a symbol is always recyclable. ¹ https://www.pro-e.org/the-green-dot-trademark		

(49a)	<u>Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>	Packaging covered by ~~the~~ a mandatory deposit and return system should bear a label informing the consumers that such packaging is covered by ~~the~~ such a system and therefore should be collected through specific....	Editorial

(49ab) [Placeholder: Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between the provisions of the Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, provides that		
displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]		

(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of **standardised, open,** digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should **keep linguistic elements to a minimum and** take into account scientific or other available technical information, including relevant international standards. **The labelling of packaging subject to a harmonised deposit and return system should be designed with consideration given to the different countries' currency deposit system variation in the deposit being charged, which may exist between Member States.** In view of the

PUBLIC

new system, Commission Decision 97/129/EC¹ should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.		
<i>Article 11 Labelling of packaging</i>		
1. From <u>42 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest, [OP: Please insert the date = 42 months after the entry into force of this Regulation]</u> packaging <u>packaging placed on the market</u> shall be marked with a label containing information on its material composition <u>and including</u> for the packaging referred to in <u>Article 8(1) and (2)</u>, that the material is compostable. This obligation does not apply to transport packaging. However, it applies to e-commerce packaging. Packaging subject to deposit and return systems referred to in Article 44(1) shall, <u>in addition to the labelling referred to in the first</u>		

¹ 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).

subparagraph, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.		
2. Reusable packaging placed on the market ~~From~~ 48 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest ~~[OP: Please insert the date = 18 months after the date of entry into force of this Regulation]~~, packaging shall bear a label informing that it the packaging is reusable on packaging reusability and a QR code or other type of standardized, open, digital data carrier that provides further information on packaging reusability including the availability of a local, national or EU-wide system for re-use and of information on collection points, and that facilitates the tracking of 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.	a label informing users that ~~it~~ the packaging is	Editorial (inform requires an object)

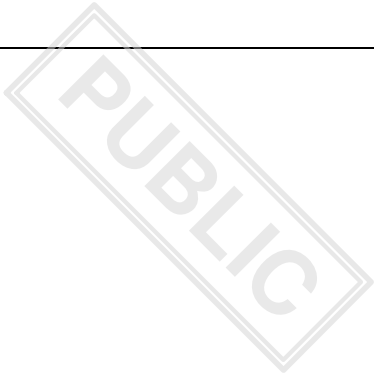
3. Where-If a unit of packaging is covered by Article 7 placed on the market from <u>42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the</u>	~~Where~~ If a unit of packaging	Editorial (deletion of “where”)
<u>latest</u> ~~<i>[OP: Please insert the date – xx months after the entry into force of this Regulation]</i>~~, <u>and</u> is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).		

4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly ~~and indelibly~~ on the packaging; and the information shall be available to end users before the purchase of the product in distance sales when the product is sold online ~~e. 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.~~ The information contained in the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily		
understood by end users as determined by the Member State in which the packaging is to be made available on the market. Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.		

5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 and the labelling of waste receptacles referred to in Article 12. <u>The Commission shall take into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States' different currencies and deposits system.</u> ~~The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~		
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

6. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</u> <u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>		
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.		
8. Packaging included in an extended producer responsibility scheme ~~or covered by a deposit and return system other than that referred to in Article 44(1)~~ may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.		
<u>8a. Packaging covered by a deposit and return system referred to in Article 44(1) shall be labelled with the harmonised label in accordance with paragraph 1. These packaging may, in addition, by virtue of national law and on the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States, be identified by means of a corresponding symbol throughout the territory in which that</u>	accordance with paragraph 1. ~~These~~ This packaging may, in addition	Editorial

<u>scheme or system applies. Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. The symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</u>		
<i>Article 12 Labelling of waste receptacles for the collection of packaging waste</i>		

1a. By 1 January 2028, ~~<u>OP: Please insert the date = 42 months after the entry into force of this Regulation</u>~~, <u>42 months after the entry into force of this Regulation, or 24 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest</u>, Member States shall ensure that labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ are affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. <u>A receptacle for packaging waste may bear more than one</u>		
<u>label.</u> This obligation does not apply to receptacles covered by a deposit and return system.		
<i>Cluster 4 Waste prevention</i>		
<i>Recitals corresponding cluster 4:</i>		

<u>(10a) Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are not designed and intended to be filled at the point of sale. Only when these items are designed and intended to be filled at the point of sale or offered for sale pre-filled, they should be considered packaging, provided that they perform a packaging function.</u>		
(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions. 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 13428:2000^[1], should therefore be modified. 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 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. 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.

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



(41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space in grouped and transport packaging, including ecommerce packaging.		
(42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and specify measurable design criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.		

(60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space ratio		
should be set on economic operators who fill the packaging and in terms of reducing the empty space when for the using of such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or end user, the empty space ratio should not exceed 40 %. In line with the waste hierarchy and to promote packaging innovation with the aim of packaging waste reduction, it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation.		

(61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and food hygiene, and facilitate the achievement of the packaging waste prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the list. <u>The Commission will publish guidelines explaining in more detail Annex V, including</u>		
<u>examples of the packaging and guidance as regards the exemptions.</u>		

(72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council^[1]. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements.		
^[1] 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).		

(73) In view of the results of the evaluation study on plastic carrier bags^[1], 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. [1] 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) <u>To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory,</u>~~The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory~~ <u>may adopt measures which</u> include banning these types of plastic carrier bags, ~~the use of~~ implementation of national reduction targets, maintaining or introducing economic instruments as well as other marketing restrictions, provided that these ~~restrictions~~		

measures are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		

(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %,		
compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		

(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt		
provisions which go beyond the minimum targets set out in this Regulation.		

(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) ~~with the main purpose of that Directive being to prevent littering and its environmental impact.~~ Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, ~~unless specifically provided otherwise in this Regulation.~~ <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a</u>		We would not favour the proposed approach that the SUPD can be <i>lex specialis</i> in some circumstances but not others, as this muddies the water in relation to the interaction between the 2 pieces of legislation . Something is either <i>lex specialis</i> or it is not.

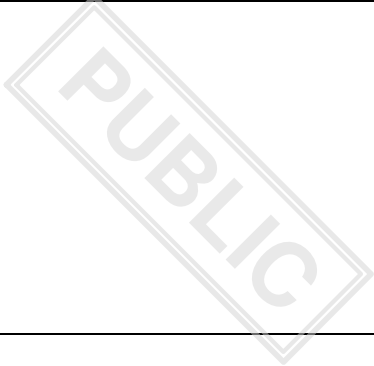
consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic

products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.

PUBLIC

<i>Articles</i>		
<i>Definitions from Article 3 regarding cluster 4:</i>		
(21) 'packaging waste prevention' means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, <u>including re-use and measures to extend the life of the packaging before it becomes waste.</u>		
<i>Article 9 Packaging minimisation</i>		

1. ~~Packaging shall be~~ The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.		
2. The manufacturer or importer shall ensure that p~~Packaging not necessary to~~ complying with any of the performance criteria set out in Annex IV ~~and~~ or packaging with characteristics that are only	2. The manufacturer or importer shall ensure that p~~Packaging not necessary to~~ which does not complying with ~~any of~~ the performance criteria set out in Annex IV ~~and~~ or packaging with characteristics	Editorial – to ensure the performance criteria apply
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 subject to geographical indications of origin protected under Union legislation.		

<u>3. The economic operator who fills the packaging shall ensure that empty space shall be reduced to the minimum necessary for ensuring the packaging functionality, including product protection, as follows:</u> <u>(a) for sales packaging, in relation to the total volume of the packaged product and its characteristics;</u> <u>(b) for grouped and transport packaging, including e-commerce packaging, in relation to the total volume of the grouped or transported products and their sales packaging;</u> <u>For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		

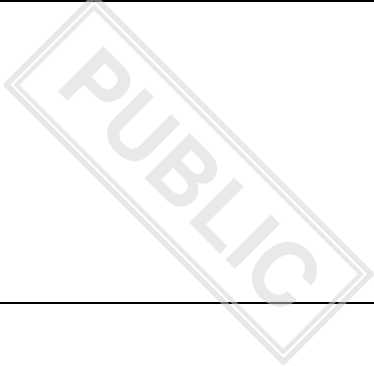
4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements: (a) an explanation of the technical specifications, standards, and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV; (b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria; (c) any test results, studies or other relevant sources such as modelling and simulation studies used to assess the minimum necessary volume or weight of the packaging. For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, and in the first place the requirements set out thereof.		

4a. months after entry into force of this Regulation, the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and		
measurement of compliance with the requirements concerning packaging minimisation under this Regulation. <u>For certain most common packaging types and formats such standards should and specifying</u> maximum adequate weight and volume limits, and, if appropriate, <u>wall thickness and maximum empty space for certain most common packaging types and formats.</u>		
<i>Article 21 Obligation related to excessive packaging</i>		
1. Economic operators who supply products 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 %.		

2. For the purpose of this calculation: (a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or ecommerce packaging and the volume of sales packaging contained therein;		
(b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-commerce packaging. Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene or Styrofoam chips <u>or other filling materials</u>, shall be considered as empty space.		

<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		
3. Economic operators using sales packaging as e-commerce packaging <u>or using reusable packaging</u> shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements set out in Article 9.		

<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>		
<i>Article 22 Restrictions on use of certain packaging formats</i>		
<u>1. At the latest, three years after entry into force of this Regulation,</u> ~~E~~economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.		

2. ~~By way of derogation from paragraph 1, economic operators shall not place on the market packaging in the formats and for the purposes listed in point 3 of Annex V as of 1 January 2030.~~		
3. Member States may exempt micro-enterprises defined in accordance with the Commission Recommendation 2003/361/EC, ~~economic operators~~ from point 3 of Annex V if they comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361, as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation], ~~and where~~ if it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.		

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend Annex V in order to		
adapt it to technical and scientific progress with the objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the restrictions on the use of specific packaging formats to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.		
4a. <u>48</u> months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, explaining in more detail Annex V, including examples of the packaging <u>formats in scope</u> and <u>guidance as regards the any</u> exemptions.		

<i>Article 29 Plastic carrier bags</i>		
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, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.	in the consumption of lightweight plastic carrier bags ~~on~~ in their territory. A sustained reduction is considered to be achieved if the annual consumption does not exceed 40 lightweight plastic	Editorial and for clarification

2. Measures to be taken by Member States to meet the target set out in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include the banning of lightweight plastic carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory.		
3. In addition to the measures under paragraphs 1 and 2 above, Member States may take measures, such as economic instruments, and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		

<u>3a. In case the Member State adopts national reduction targets concerning certain plastic carrier bags, they can introduce measures to achieve such targets, which may, by way of derogation from Article 4, include the banning of such carrier bags or other marketing restrictions, provided that they are proportionate and nondiscriminatory . If the measures take the form of bans, Member States shall monitor the effects of such measures and revoke the measures immediately in case there is a risk the end users can replace the use of banned carrier bags with a product having a more detrimental impact on the environment.</u>		
4. Member States may exclude very lightweight plastic carrier bags ~~which~~ <u>that which</u> are required for hygiene purposes or provided as		
sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		
<i>Article 38 Prevention of packaging waste</i>		

1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by 2030; 1. 10 % by 2035; 1. 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. For the purpose of paragraph 2, Member States may introduce packaging waste prevention measures going beyond the minimum measures set out in this Article, while complying with the provisions set out in this Regulation. Such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC, or other appropriate instruments and measures, including incentives through extended producer responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. ~~Such measures~~ They shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		

<u>3a. By way of derogation from paragraph 1, Member States may at the latest by [xx] request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2-3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under</u>		
<u>the condition that the Member State provide substantiated evidence (i) of a significant increase of packaging waste during the year to be used for base as calculation of the targets under paragraph 1 (ii) that such increase is due to changes in the reporting procedures only, and (iii) the increase is not due to an increased consumption.</u>		
4. By [OP: Please insert the date = 8 years after the date of entry into force 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 the Commission finds it appropriate, by a legislative proposal.		

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

<u>ANNEX IV</u> <u>METHODOLOGY FOR PACKAGING MINIMISATION</u> <u>ASSESSMENT</u>		
PART I Performance criteria		

1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.		
2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. The packaging manufacturing processes may determine packaging design elements such as the shape of a		

container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.		
3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. Requirements may consist of dimensional co-ordination for optimum space utilisation, compatibility with palletizing and de-palletizing systems, handling and warehousing system, packaging system integrity during transport and handling.		
4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. Requirements may consist of		

providing product information, instructions for storage, application and use, bar codes, best before date, etc.		
5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. Requirements may consist of: safe handling design, child resistance, tamper evidence, hazard warnings, clear identification of content, safe opening device, pressure release closure, etc.		
6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.		

7. Recycled content, recyclability and re-use: The packaging design shall ensure reusability, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. This means that the packaging		
weight or volume may have to be increased, beyond what would otherwise be possible under the other performance factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material).		
PART II Assessment methodology and determination of the minimum packaging volume and weight		
The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:		

(b) (aa) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;		

(a) (ab) for each performance criterion as listed in Part I, ~~a list of design requirements~~ a description shall be made which explains the design requirement that ~~which~~ prevents further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging material shall be investigated. It shall not be sufficient to substitute one packaging material with another;		

(c) any test results, market research or studies that have been used for the assessment conducted under points (aa) and (ab).		

ANNEX V RESTRICTIONS ON USE OF PACKAGING FORMATS					
	Packaging format	Restricted use	Illustrative example		

1	Single-use plastic grouped packaging	Plastic packaging used at <u>the point of sale</u> ~~retail level~~ to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage <u>consumers</u> ~~users~~ to purchase more than one product. This	Collation films, shrink wrap		

PUBLIC

		excludes grouped packaging necessary to facilitate handling in <u>business-</u> <u>tobusiness</u> distribution.			



2	Single use ~~plastic~~ ~~packaging,~~ ~~single use~~ ~~composite~~ ~~packaging~~ ~~or other~~ single use packaging for <u>unprocessed</u> fresh fruit and vegetables	Single use packaging for less than 1.5 kg <u>pre-packed</u> fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiologica l hazards or physical shocks, <u>oxidation,</u>	Nets, bags, trays, containers		

		~~with the exemption of packaging needed to avoid commingling of organic fruits and vegetables with non-organic fruits and vegetables according to Regulation (EU) 2018/848. Exemptions can also be made in the case there is no other possibility to comply with the requirements in regulation EU 2018/848, such as~~			

PUBLIC

		<u>certification or labelling.</u>			



3	Single use ~~plastic~~ ~~packaging,~~ ~~single use~~ ~~composite~~ ~~packaging~~ ~~_____or other~~ ~~_____single~~ ~~use packaging~~	Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by	Trays, disposable plates and cups, bags, ~~foil~~, boxes		

		several economic operators or third party for the purpose of food and drinks consumption. <u>Packets</u> <u>_____ and wrappers</u> <u>made from flexible material</u> <u>_____ for the purpose of containing food that is intended</u> <u>_____ for immediate consumption from _____ the packet or wrapper without</u> <u>_____ any further preparation, may be exempted.</u>			

				PUBLIC	

4	Single use packaging condiments, preserves, sauces, coffee creamer, sugar and seasonings in HORECA sector	Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation	Sachets, tubs, trays, boxes		

5	Single use hotel ~~miniature~~ packaging	For <u>disposable</u> cosmetics, hygiene and toiletry products of	Shampoo bottles, hand and body lotion bottles, sachets around		

		less than 50 ml for ~~liquid~~ products ~~or~~ less than 100 g for ~~non-liquid~~ products <u>for</u> <u>the use in the</u> <u>accommodati</u> <u>on sector,</u> <u>according to</u> <u>NACE Rev. 2</u> <u>– Statistical</u> <u>classification</u> <u>of economic</u> <u>activities</u>^[1], <u>intended for a</u> <u>single service</u> <u>and discarded</u> <u>before the</u> <u>next guest</u> <u>arrives.</u> ^[1] NACE code I55, list can be found in EUROPA - Competition - Cases by NACE code - I	miniature bar soap		

Cluster 5 General provisions including the legal basis (Articles 1,2,4)		
<i>Recitals</i>		
(1). Products need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Prevention of barriers ~~to~~ on the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause additional cost to the economic operators.		

(2). In addition, packaging uses high amounts of virgin materials (40 % of plastics and 50 % of paper use in the Union is for packaging) and represents 36 % of municipal solid waste^[1]. High and constantly growing levels of packaging generated as well as low levels of reuse and poor recycling, present significant barriers to achieving a low-carbon circular economy. For these reasons, this Regulation should establish rules over the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and reducing the		
adverse impacts of packaging and packaging waste on the environment and human health. By laying measures in line with the hierarchy of waste, it should contribute to the transition to a circular economy. ^[1] Eurostat, Packaging waste statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics		

(3) .European Parliament and Council Directive 94/62/EC^[1] lays down requirements for Member States on packaging, such as essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and recovery and recycling targets. ^[1] European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).		
(4) .In 2014, a Fitness Check relating to Directive 94/62/EC^[1] recommended adaptations of the essential requirements to make them “more concrete and easily enforceable” and to strengthen them,		
which were seen as a key tool to achieve better environmental performance of packaging. ^[1] European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209		

(5). In line with the Green Deal^[1], the new Circular Economy Action Plan (CEAP)^[2] 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 Union-wide labelling that facilitates the correct separation of packaging waste at source. ^[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN ^[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter		

(6). Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately five-times better than incineration with energy recovery^[1]. Just as the European Strategy for Plastics^[2] states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of own resources contribute to reducing pollution from plastic packaging waste^[3]. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource is part of incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy.

^[1] 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.

^[2] 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.



^[3] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM (OJ L 424, 15.12.2020, p. 1).		
(7). The Council underlined in its Conclusions of December 2020^[1], that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions to facilitate 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 materials, especially concerning food packaging materials, and to provide for labelling packaging in an easily understandable way to inform consumers about its recyclability and where its waste should be discarded to facilitate sorting and recycling. ^[1] https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf		

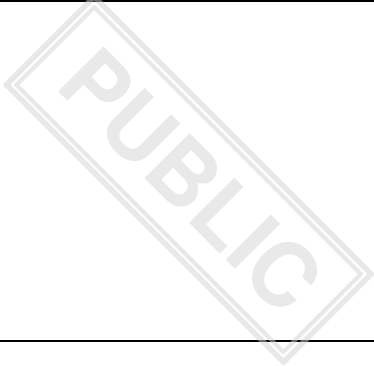
(8). The European Parliament's Resolution of 10 February 2021 on the New Circular Economy Action Plan^[1] reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a		
legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use. ^[1] https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html		

(12). In line with the waste hierarchy set out in Article 4(2) of Directive 2008/98/EC, and in line with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for 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 packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, 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 higher recycling rates for all packaging and high quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.		
(13). Packaging should be designed, manufactured and commercialised in such a way as to allow for its re-use or highquality 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.		

(32). It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies. Regarding plastic packaging except where made from polyethylene terephthalate (PET), it will be warranted, sufficiently ahead of the date of application of the related recycled content requirements, to re-assess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on this assessment, there might be need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to		Extension of derogation may be better done via Implementing Act
adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.		
<i>Articles</i>		

<i>Article 1 Subject matter</i>		
1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market, as well as for the extended producer responsibility, collection, and treatment, including ~~and~~ recycling of packaging waste.		
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, distortion and restriction of competition within the		

Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental protection.		
3. This Regulation contributes to the transition to a circular economy, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.		
<i>Article 2 Scope</i>		

1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.		
2. This Regulation applies without prejudice to Union regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the hygiene of the packed products, or to transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.		
<i>Article 4 Free movement</i>		

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 making available on the market for the first time within the territory of a Member State of packaging that		
complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 of this Regulation.		
~~3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.~~		

4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the ~~placing~~ making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of noncompliance with those national requirements.		As previously noted, it is not clear how this can be implemented –
5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system <u>other than those referred to in Article 44(1)</u>.		

6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it has been brought into conformity.		

Deadline: 31.07.23

PUBLIC

ANNEX II – PART 3 OF THE TEXT REV01. CLUSTER 6, 8 - 11.

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 6 and from 8 to 11 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

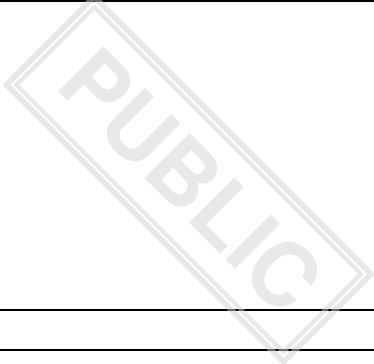
Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

Cluster 6 Management of packaging waste		
<i>Recitals corresponding Cluster 6</i>		
(84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and 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.		

(85) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As		
products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.		
(86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.		

(87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment		
of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.		
(88) As collection and management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the mMeasures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive 2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>	down in Directive 2008/98/EC. As regards to the mMeasures on waste prevention and re-use	Editorial

(89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		

(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10		
% from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		

(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		

(93) 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 of the European Parliament and of the Council^[4], makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark.~~ **To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. The Regulation seeks to clearly define one producer per packaging unit, be it for empty packaging or for packaging containing products. As a general rule, the producer should be the economic operator located in the Member State where the packaging is made available for the first time. The exception is when packaging is made available by means of distance contracts directly to the end-user when the producer is established outside the EU. The definition of producer takes into account, which economic operator is best**

PUBLIC

<u>placed to comply with the producer-related obligations, but also seeks to minimize unnecessary administrative burden for small businesses filling service packaging at the point of sale.</u> [1] 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).		
(94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State, it is necessary that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.		

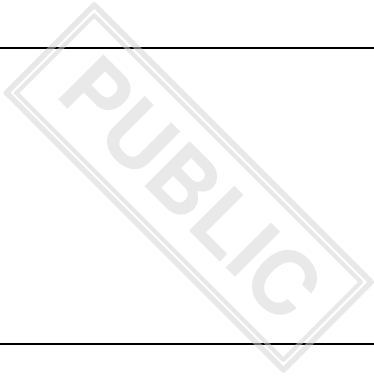
(95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.		

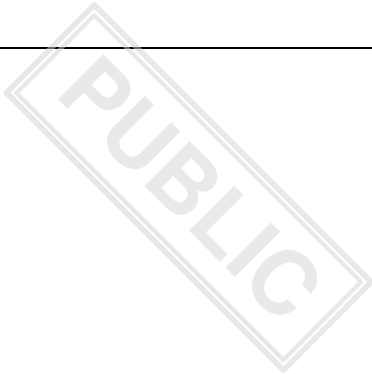
(96) In line with the polluter-pays principle expressed in Article 191(2) of the Treaty, it is essential that the producers placing on the Union market packaging and packaged products take responsibility for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and		
in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. <u>For example, in order to facilitate the separate collection of packaging waste, the producers shall finance the labelling of waste receptacles. This is in line with the producer pay principle and the general minimum requirements for EPR schemes established in Directive 2008/98/EC.</u>		

(96a) As regards extended producer responsibility (EPR) obligations, this Regulation is a <i>lex specialis</i> in relation to Directive 2008/98/EC, which means that where this Regulation <u>has sets out EPR-related provisions</u>, these should prevail over any conflicting provisions in that Directive. This concerns, for example, requirements on <u>producer</u> registration, <u>fee ecomodulation of EPR fees</u> and reporting. ~~However, all~~ <u>Where this Regulation does not provide for a full harmonisation as regards other</u> measures related to EPR or additional rules on non-		

<u>harmonised topics in relation to EPR, Member States should be able to provide for additional measures, provided such measures are in accordance with Directive 2008/98/EC and consistent both with the national laws transposing that Directive and with this Regulation, should be regulated in accordance with the provisions of Directive 2008/98/EC and national rules transposing that Directive, without and do not creating barriers to the internal market. Furthermore, this Regulation does not regulate arrangements of the systems of collection of packaging waste, as this is an example of a matter that is set by national law transposing Directive 2008/98/EC. The same rule applies as regards separate collection of packaging waste and the labelling of waste receptacles. However, this Regulation does not regulate which operator is responsible for the collection of packaging waste and other national contractual arrangements for packaging waste collection.</u>		
<u>(96b) In addition to the harmonized requirement on recyclability for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6), Member States should be allowed to use</u>		

<u>other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.</u>		
(97) Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. ~~Moreover, when establishing measures ensuring that arrangements are to be concluded with distributors, public authorities or third~~		

<u>parties carrying out waste management, Member States should allow for preliminary, or similar, agreements, and require that binding agreements are concluded only within a reasonable timeframe after the authorisation.</u>		
(98) This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council^[1] lays down rules on the traceability of traders, which more specifically contain obligations for are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to be a trader as defined in Regulation (EU) 2022/2065. In order to prevent freeriding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should		

fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In that context, providers of online platforms, falling within the scope of Section 4 of Chapter III 3 of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, in line with Regulation (EU) 2022/2065, from those producers, information about their compliance with the extended producer responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in Regulation (EU) 2022/2065. ^[1] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).		
(99) Member States should provide for the measures for the extended producer responsibility under this Regulation <u>and may also provide further requirements for extended producer</u>		

<u>responsibility</u> in accordance with the provisions of Directive 2008/98/EC and of this Regulation.		
(100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under nondiscriminatory provisions.		

(101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of minimum percentage set for recycled content in plastic packaging.		
(102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high collection rates of metal beverages containers, it is appropriate that Member States establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.		

(103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging 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. In such situations, a Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Regulation.		

(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products, spirit drinks and milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the European Parliament and of the Council^[1]. Member States may establish deposit and return systems covering also other packaging. 1. ^[1] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72,		
(EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).		

(105) All deposit and return systems <u>established after 1 January 2028</u> should comply with the <u>general</u> minimum ~~general~~ requirements laid down in this Regulation. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.		
(106) Member States and all 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. <u>The Commission, in consultation with Member</u>		
<u>States, should develop guidelines, including best-practices, for system inter-operability in regions with high transboundary business.</u>		

(107) Member States which achieve 90 % collection rate of the targeted packaging types without a deposit and return system two consecutive calendar years preceding the entry into force of this obligation, may request not to establish a deposit and return system.		
(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for reuse and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that		

such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation and managing systems for different packaging formats, Member States are allowed to have a different system operator for the reuse system and another operator for the system for single-use plastic beverage bottles and single use metal beverage containers. However, only one operator per system should be allowed.</u>		
(109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council^[1] setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be retained. 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, it should not be possible to postpone the deadlines for attaining the 2030 recycling targets. ^[1] 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).		

PUBLIC

(110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more ~~recyclable packaging, coupled with greater granularity of data on the packaging~~ **and packaging waste recycling flows**, should be reported to the Commission. That will enable the Commission to review the targets with the possibility of maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 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 than the current targets.

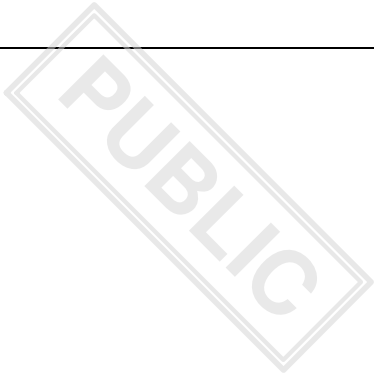
PUBLIC

PUBLIC

(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation, to be corrected with average loss rates occurring before the waste enters the recycling operations. Losses of materials which occur before the waste enters the recycling operation, for instance due to sorting or other preliminary operations, should not be included in the waste amounts reported as recycled. Those losses can be established on the basis of electronic registries, technical specifications, detailed rules on the calculation of average loss rates for various waste streams or other equivalent measures. Member States should report on such measures in the quality check reports accompanying the data which they report to the Commission on waste recycling. The average loss rates should preferably be

PUBLIC

established at the level of individual sorting facilities and should be linked to the different main types of waste, different sources (such as household or commercial), different collection schemes and different types of sorting processes. Average loss rates should only be used in cases where no other reliable data are available, in particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.		
(112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to		

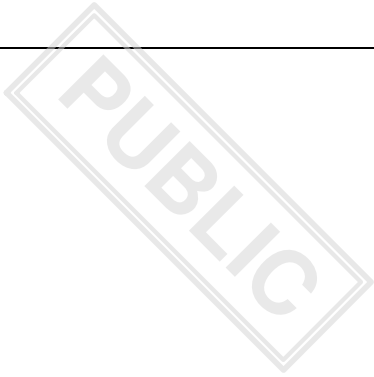
the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		

(114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004^[1] laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC. ^[1] Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).		

(115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council^[1] applies. ^[1] 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).		
(116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by taking into account maximum 5 percentage points of the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.		

(117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. <u>They should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. Only packaging listed in this</u>		

<u>Regulation and marked as home-compostable is suitable for home composting. No packaging is suitable for biodegradation in nature.</u> The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies. The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.		
<u>(117a) For labelling of biobased plastic content, t</u>~~The~~ Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics¹¹ (COM 2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, <u>fully or partly,</u> ~~made from biomass~~ <u>biobased feedstock</u> . The biomass currently		

originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by-products, such as used cooking oil, bagasse and tall oil. ~~Plastics can be fully or partially made from biobased feedstock.~~ Biobased plastics can be both biodegradable and nonbiodegradable. ^[1] https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en		

(118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. Providing of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return systems to be		
set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.		

(119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type, amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.		
(120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.		

(121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission **so that the latter ~~to~~ can** establish rules for calculation and verification of data on attainment of the recycling targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896^[1] and 2005/270/EC^[2].

^[2] Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).



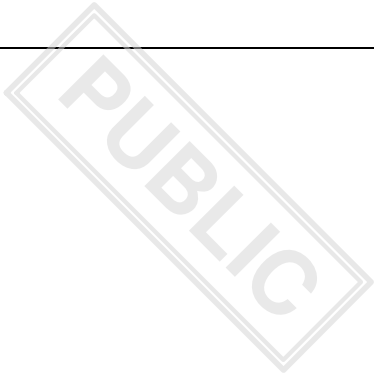
(122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation, the Member States should establish packaging databases and ensure that they are well-functioning		
<i><u>Corresponding definitions in Article 3</u></i>		
(1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, <u>also referred to as 'service packaging'</u> .		

(10) 'producer' means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, <u>makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark; alternatively, is one of the following:</u>	(10) 'producer' means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark; ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark; alternatively, is one of the following:~~	The revised definition is overly complex, does not bring clarity, and should revert to the original text.

<u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>	~~(i) — is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging — or — reusable — packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;~~ ~~(ii) — is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;~~ ~~(iii) — is established in a Member State and — makes — available — packaging — or — packaged products for the first time in this Member State, from a third country or from another Member State;~~ ~~(iv) — makes packaging or packaged products available for the first time, by~~	

	~~means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.~~	

(15) authorised appointed representative for the extended producer responsibility' 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 VII of this Regulation;		
(50) '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;		

(51) ‘deposit and return system’ means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;		
(52) ‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a product, process or service;		
(53) ‘harmonised standard’ means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;		

(55) ‘producer responsibility organisation’ means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;		
(56) ‘life-cycle’ means the consecutive and interlinked stages that packaging goes through, ~~including the packaging waste management stage~~, from raw material acquisition or generation from natural resources to ~~final disposal of the packaging waste management~~.		
(59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;		

(60) ‘ waste’ means waste as defined in Article 3 point (1) of Directive 2008/98/EC, with the exception of reusable packaging conveyed to reconditioning;		
<i>Article 35</i> <i>Competent authority</i>		

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

2. Member States shall lay down the details of the organisation and operation of the competent authority or competent authorities, including administrative and procedural rules governing: (a) the registration of producers in accordance with Article 39; (b) the organisation and monitoring of reporting requirements under Article 39(7); (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40; (d) the making available of information in accordance with Article 50.		

3. By [<i>OP: Please insert the date = ~~63~~ months after the date of entry into force of this Regulation</i>], 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.		
<i>Article 36</i> <i>Early warning report</i>		
1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.		

2. The reports referred to in paragraph 1 shall include the following: (a) an estimation of the attainment of the targets by each Member State; (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned; (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.		
<i>Article 37 Waste management plans and waste prevention programmes</i>		

1. Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 43, 44 and 38 and, 45 46 of this Regulation.		
1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 38 and 45 of this Regulation.		
<i>Article 39 Register of producers</i>		

1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter. The register shall provide links to other national registers of producers' websites to facilitate, in all Member States, registration of producers or ~~appointed~~ authorised representatives for the extended producer responsibility.		
2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall, to that end, submit an application for registration in each Member State where they make packaging available on the market for the first time. Where a producer has appointed a producer responsibility organisation as referred to in Article 41(1), the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.		

3. The obligations set out in this Article may, on ~~the producer's behalf~~, behalf of producers by written mandate, be met by an ~~appointed~~ authorised representative for the extended producer responsibility.		
4. Producers shall not make available packaging on the market, if they or, where applicable, their ~~appointed~~ authorised representatives for the extended producer responsibility, are not registered in such Member State.		

5. The application for registration shall include the information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents if it is necessary for an efficient use of the register.		
6. Where an ~~appointed~~ authorised representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the contact details of each one of the represented producers separately.		

7. The producer or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the register, <u>at the latest by 1 June 30 April</u> ~~1 March~~ for each full preceding calendar year, the information set out in Part B of Annex IX.		These are significant reporting obligations, considerably greater than what is currently required. We would like more clarity on why this level of information is being required and for what gain?, Ultimately the expense incurred in gathering the extra data has to be justified and made clear to producers and MS alike.
7a. Producers, <u>or where applicable, the producer's authorised representative, who are exempted from the obligation in paragraph 7 if they</u> fall under the definition of microenterprise in accordance with the Commission Recommendation 2003/361/EC as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation] <u>shall report to the competent authority responsible for the register, by 30 April, for each full preceding calendar year, the information set out in Part C of Annex IX.</u>		We welcome the principle of having a lower level of reporting for smaller enterprises but have a number of concerns around this provision. In the first instance, we would like to understand how the very detailed data proposed to be collected from producers under Article 39(7), can be combined with the less granular data collected from microenterprises under Article 39(7a), for reporting by MSs under Article 50(2). Secondly, we note some MSs may be operating packaging EPRs with <i>de minimis</i> thresholds that differ from the proposed microenterprise threshold. We would therefore request flexibility for MSs to establish their own

		thresholds for reporting for smaller enterprises, both in terms of requiring more information from some of enterprises at the larger end of the microenterprise bracket than provided for here, and less information from really small producers.

8. The competent authority responsible for the register: (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website; (b) shall grant registrations and provide a registration number within a maximum period of ~~twelve weeks~~ <u>1-month twelve weeks</u> from the moment that all the information laid down in paragraphs 5 and 6 is provided; (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6; (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2; (e) shall receive and monitor the reporting referred to in paragraph 7.		
9. The producer, or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation		

shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation of the making available on the market within the territory of the Member State of the packaging referred to in the registration. A producer shall be excluded from the register if the producer has ceased to exist as a producer .		

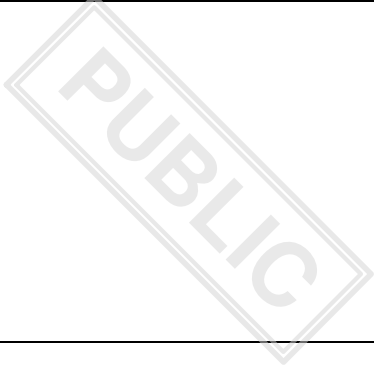
10. Member States shall ensure that the list of registered producers shall be publicly available <u>free of charge</u>. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. <u>The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use.</u> ~~Where the information in the register of producers is not publicly accessible, Member States shall ensure that providers of online platforms allowing consumers to conclude distance contracts with producers are granted access, free of charge, to the information in the register.~~		

11. The Commission shall, <u>by no later than three years after the entry into force of this Regulation</u> ~~<i>/OP: please insert the date X after the date of entry into force of this Regulation/</i>~~, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the packaging types and material categories to be covered by the reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
<i>Article 40 Extended Producer Responsibility</i>		
1. Producers of packaging shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging that they make available on the		

market for the first time within the territory of a Member State.		
<u>1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the collection of packaging waste as referred to in Article 12.</u>		
2. A producer shall appoint, by written mandate, an ~~appointed~~ authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time.		

3. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, Providers of online platforms, falling within the scope of Section 4 of Chapter 3 III of Regulation (EU) 2022/2065,		
allowing consumers to conclude distance contracts with producers shall obtain the following information from producers offering packaging to consumers located in the Union: (a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located and the registration number(s) of the producer in that register; (b) a self-certification by the producer committing to only offer packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this article are complied with in the Member State where the consumer is located.		

<u>3a</u> <u>The provider of the online platform allowing consumers to conclude distance contracts with traders shall verify the information in paragraph 3 point (a) with the publicly available registration list referred to in Article 39(10), and where the provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 3 obtained from</u>		
<u>the trader concerned is inaccurate, incomplete or not up-to-date, the provider shall request the trader to remedy that situation without delay or within the period set by national law. Where the trader fails to correct or complete that information, the provider of the online platform shall swiftly suspend the provision of its service to that trader until the request has been fully complied with.</u>		
<i>Article 41 Producer Responsibility Organisation</i>		

1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.		
2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, the Member State shall ensure that the producer responsibility organisations <u>and producers that have not entrusted a producer responsibility organisation</u> , when taken together, cover the whole territory of the Member State as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.		

3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable to individual producers or their ~~appointed~~ authorised representatives.		
4. In addition to the information referred to in Article 8a(3), point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every year ~~and subject to commercial and industrial confidentiality,~~ information on the amount of packaging made available on the market for the first time in the territory of a Member State and on the levels of recovered and recycled materials in relation to the amount of packaging for which they have been performing producer responsibility obligations.		

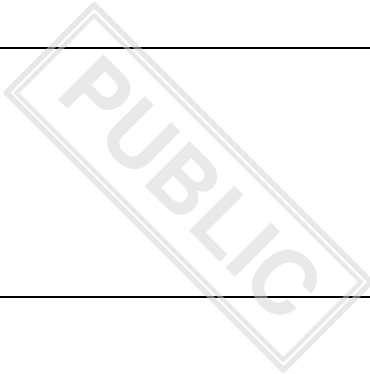
<i>Article 42 Authorisation on fulfilment of extended producer responsibility</i>		
1. A producer, in the case of individual fulfilment of extended producer responsibility obligations, or the appointed producer responsibility organisations in the case of collective fulfilment of extended producer responsibility obligations, shall apply for an authorisation from the competent authority.		

2. The Member State shall in its measures laying down administrative and procedural rules referred to in Article 35, establish the requirements and details of the authorisation procedure, which can be different for either individual or collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the information to be provided by producers or producers 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~~may be done by a competent authority or an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility organisations or the producers authorised for individual fulfilment.		

3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that: (a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with; (b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the return or collection in accordance with Article 43(1) and (2) and Article 44, free of charge for end users, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types 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, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf;		

(d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling; (e) the requirement laid down in paragraph 6 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 in particular if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or in relation to the notification of any changes that		

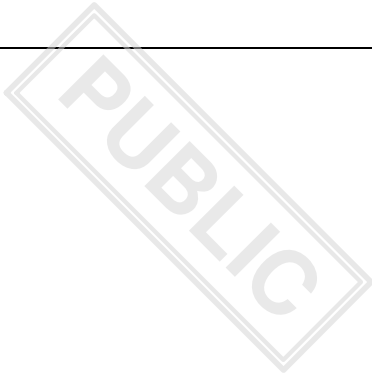
concern the terms of the authorisation, or has ceased operations.		
6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case of non-compliance with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. That guarantee may take the form of a recycling insurance or a blocked bank account or participation by the ~~producer~~ producer in the producer responsibility organisation. Member States may specify additional requirements on this guarantee.		

<u>Annex IX</u> <u>INFORMATION FOR REGISTRATION AND REPORTING TO THE</u> <u>REGISTER REFERRED TO IN ARTICLE 39</u>		
A. Information to be submitted upon registration		

1. The information to be submitted by the producer or its authorised representative for EPR shall include: (a) name and brand names (if available) under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, indicating a single contact point; (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number;		
(c) quantities by weight of types of packaging as set out in Table 1 of Annex II, that the producer makes available in the Member State for the first time; (d) a declaration on how the producer meets its responsibilities under Article 40.		

2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and email address and the national identification code of the producer responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.		

3. In the case of an authorisation in accordance with Article 41(1), the producer responsibility organisation shall, in addition to the information required under point 1 of Part A of this Annex, provide: (a) the names and contact details, including postal codes and places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented; (b) the mandate of each represented producer, where applicable; (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the represented producers meets the responsibilities set out in Article 40.		
B. Information to be submitted for reporting		
(a) national identification code of the producer; (b) reporting period;		

(c) quantities by weight of packaging types as set out in Table 1 in Annex II that the producer makes available in the Member State for the first time; (d) quantities, by weight, per material of packaging waste separately collected within the Member State as set out in Table 1 in Annex II; (e) quantities, by weight, per material and type of packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII; (f) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII; (g) arrangements to ensure the producer responsibility regarding the waste from packaging placed on the market.		
<u>C. Information to be submitted for reporting for micro-enterprises</u>		
<u>a. national identification code of the producer;</u>		

b. <u>reporting period;</u>				PUBLIC	
c. <u>information on packaging types set out in Table 1.</u>					
d. <u>arrangements to ensure the producer responsibility regarding packaging placed on the market</u>					
Table 1					
	Quantities by weight made available in member state	Quantities by weight collected	Quantities by weight recycled		
Glass					
Plastic					
Paper/cardboard (including composite)					
Ferrous metal					
Aluminium					
Wood					

Other					
Total					
Deposit return systems and waste collection					
<i>Article 43 Return and collection systems</i>					

1. <u>By 2030</u>, Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year</u>, in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>		

2. Member States may allow derogations from paragraph 1 provided that collecting packaging or fractions of packaging waste together or together with other waste does not affect the potential of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.		
3. The systems referred to in paragraph 1 shall: (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf; (b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities,		

and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas; (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.		
~~5. By way of derogation from the separate waste collection obligation in paragraph 3, certain types of packaging waste may be collected together where such collection does not~~		

~~affect their potential to undergo recycling operations and results in output from those operations which is of comparable quality to that achieved through separate collection.~~		
<i>Article 44 Deposit and return systems</i>		
1. By 1 January 2029, Member States shall take the necessary measures to ensure that deposit and return systems are set up for the separate collection of at least 90% per year by weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year (a) single use plastic beverage bottles with the minimum capacity of 0,1 litres up to three litres; and (b) single use metal beverage containers with a minimum capacity of 0,1 litres up to three litres.	(a) single use plastic beverage bottles with the minimum capacity of 0,1 litres up to three litres in capacity; and (b) single use metal beverage containers with a minimum capacity of 0,1 litres up to three litres in capacity.	We would prefer to see flexibility for MSs to establish a minimum size

2. In order to achieve the targets referred to in paragraph 1, Member States shall <u>take the necessary measures to ensure that ~~establish~~ deposit return systems are set up</u> for the relevant packaging formats referred to in paragraph 1. Such obligation ~~The obligation laid down in paragraph 1~~ does not apply to packaging for: (a) wine, aromatised wine products, and spirit drinks; (b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.		

~~3. Without prejudice to paragraph 1 of this Article, a Member States~~ ~~will~~ may be exempted from the obligation under paragraph ~~4~~2 under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as reported to the Commission under Article 50(1) point (c) is above 90 % by weight of such packaging ~~placed~~ made available on the market for the first time on the territory of that Member	 A large, light gray, diagonal stamp with the word "PUBLIC" in bold, capital letters, oriented from the bottom-left to the top-right.	

State in the calendar years 2026 and 2027. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point (be) of that paragraph. The Member State concerned shall		

submit a revised plan within 3 months of receipt of the Commission's request.		
5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the Commission notified the Member State concerned that the exemption no longer applies.		
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, 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.		
7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article <u>and the possibility to include packaging for other products.</u>		
8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are not less convenient for end users than opportunities to return singleuse packaging to a deposit and return system.		

9. By 1 January 2028, Member States shall ensure that all deposit and return systems, including those established under paragraph 5 <u>6</u>, meet the minimum criteria listed in Annex X.		
<u>9a.</u> <u>48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, on deposit and return systems inter-operability, including examples of best-practices, for regions with high transboundary business.</u>		
<u>ANNEX X</u> <u>MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS</u>		

For the purpose of this Annex, the following definition shall apply: ‘system operator’ means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit and return system in a Member State.		

Minimum general requirements for deposit and return systems Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:		
(a) a single system operator is established or licenced. When deposit and return systems are established for specific packaging formats for reuse or single use, Member States may establish more than one single <u>a different</u> system operator <u>per system</u>;		

(b) the governance of the system allows for equal access and fair conditions of all economic operators wishing to become part of the system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;		
(c) control procedures and reporting systems are set up allowing the system operator to obtain data on the collection of packaging covered by the deposit and return system;		
(d) a minimum deposit level is established, which is sufficient to achieve the required collection rates; <u>(da) a minimum deposit to be charged at the point of sale,</u>		
(e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;		
(f) system operator is a non-profit and independent legal entity		

(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;		
(h) system operators coordinates the functioning of the deposit and return system;		
(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system;		
(iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates;		
(j) a sufficient amount ~~at least 1%~~ of the ~~annual~~ turnover of the system operator (excluding deposits) are used for public awareness campaigns on the information on management of packaging waste;		

(k) system operators must provide any information requested by the competent authorities of a Member State, in which the system operates, for the purposes of monitoring compliance with the requirements in this Annex;		
(l) Member States shall ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with redeemed deposits. ~~When implementing this obligation, Member States shall take into account at least the following factors:~~ ~~(i) — sales surface area allowing end users to return deposit bearing packaging in their according to the local conditions;~~ ~~(ii) — buying and selling habits and traditions;~~ ~~(iii) — food safety;~~		
~~(iv) health and safety;~~ ~~(v) public health;~~		
~~(m) deposit is exempted from sales taxes;~~		

(n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;		
(o) all deposit bearing packaging is clearly labelled, so that the end users can easily identify the need to return such packaging;		
(p) fees are transparent;		
~~(q) all packaging covered by the deposit and return system.~~		
(r) In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.		
~~Member States with regions with high transboundary business shall ensure that the functioning of the DRS allows for the inter-~~		

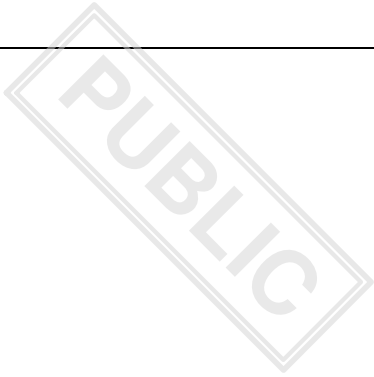
~~operability of DRS and that the implementation of the minimum requirements and of any additional requirements does not result in discrimination of business and consumers and market distortions.~~		
Member States are allowed to create exemptions from charging a deposit for a deposit bearing packaging in the context of consumption in hospitality premises provided that a deposit bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.		
<i>Article 46 Recycling targets and promotion of recycling</i>		

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

(ii) 25 % of wood; (iii) 70 % of ferrous metals; (iv) 50 % of aluminium; (v) 70 % of glass; (vi) 75 % of paper and cardboard; (c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated; (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 55 % of plastic; (ii) 30 % of wood; (iii) 80 % of ferrous metals; (iv) 60 % of aluminium; (v) 75 % of glass; (vi) 85 % of paper and cardboard.		
2. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following conditions:		

(a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets, (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %, (c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and (d) at the latest 24 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).		

3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
4. By <i>[OP: Please insert the date = 8 years after the date of entry into force of this Regulation]</i>, the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.		

5. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by: (a) improving market conditions for such materials; (b) reviewing existing rules preventing the use of such materials.		
6. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum ~~targets~~<u>requirements</u> set out in this Article.		
<i>Article 47 Rules on the calculation of the attainment of the recycling targets</i>		

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

3. Member States shall calculate the weight of packaging waste recycled in a given calendar year. The weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste		
materials are actually reprocessed into products, materials or substances.		
4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.		

5. Packaging waste exported out of the Union shall be calculated as recycled 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.		

6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first sub-paragraph of this ~~Article~~paragraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that: (a) such output waste is subsequently recycled; (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.		
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in paragraphs 2 ~~and~~ to 7 are met. That system may consist of electronic registries set up		

pursuant to Article 35(4) of Directive 2008/98/EC or technical specifications for the quality requirements of sorted waste. It may also consist of average loss rates for sorted waste for various waste types and waste management practices respectively, provided that reliable data cannot be otherwise obtained. Average loss rates shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.		
8. The amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.		

9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as recycled.		
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.		

11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only		
be counted as recycled by the Member State in which that packaging waste was collected.		
12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are broadly equivalent to the requirements of the relevant Union environmental law.		
<i>Article 48 Rules on the calculation of the attainment of the recycling targets by including re-use</i>		

1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking		

PUBLIC

into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging. The adjusted level shall be calculated by subtracting: (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in the first subparagraph in all sales packaging placed on the market, and (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market. No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.		

2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point (a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).		
<u>ANNEX XI</u> <u>IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO</u> <u>POINT (D) OF ARTICLE 46(2)</u>		
The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:		
(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;		

(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;		
(c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;		
(d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;		
(e) a timetable for the implementation of the measures identified in point 4(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;		

(f) information on funding for waste management in line with the polluter-pays principle;		
(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.		
<i>Article 50 Reporting to the Commission</i>		

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

2. Member States shall report ~~for each packaging material and type as listed in Table 1 of Annex IX~~ for each calendar year data on: (a) the amounts of packaging made available ~~placed~~ on the market for the first time on the territory of that Member State for each packaging type <u>category</u> and material as listed in Table 1 of Annex ~~IX~~; (b) amounts of separately collected packaging waste for each packaging material as listed in Table ~~13~~ in the Annex ~~XIX~~; (c) the recycling rates of packaging waste as listed in Table 4 of Annex XII; (d) installed capacities for sorting and recycling for each packaging type and material as listed in Table 1 of Annex II.		

3. The first reporting period shall concern: (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, the 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 1, point c, the calendar year starting from 1 January 2028.		
4. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in accordance with paragraph 7.		

5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the format established by the Commission in accordance with paragraph 7.		
6. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article 47(~~58~~) and (~~8~~<u>12</u>), including detailed information about the average loss rates where applicable.		

7. The Commission shall, by [<i>OP: Please insert the date = ~~2412~~ months after the date of entry into force of this Regulation</i>], adopt implementing acts establishing: (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting; (b) the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
8. Member States shall require that all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant, particular problems faced ~~by~~ing small and medium-sized enterprises with regard to the provision of detailed data.		

<i>Article 51 Packaging databases</i>		
1. By [OP: Please insert the date = xx months after the date of entry into force of this Regulation] , the Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis, to enable the reporting to the Commission.		

2. The databases referred to in paragraph 1 shall include the following: (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States; (b) ~~information on the toxicity or danger of packaging materials and components used for their manufacture;~~ (c) the data listed in Annex XII.		

<u>ANNEX XII</u> <u>DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE</u> <u>(IN ACCORDANCE WITH TABLES 1 TO 4)</u>		

1. For sales, grouped and transport packaging: (a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1); (b) quantities reused (Table 2).		
2. For sales, grouped and transport packaging waste: (a) Quantities for separately collected packaging waste per material (Table 3) (b) Quantities recovered and disposed of, recycled and quantities recovered for each packaging type (Table 4). (c) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5)		
(d) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)		

TABLE 1 Quantity of packaging (sales, grouped and transport) generated within the national territory							
	Tonnage produced	- Tonnage exported	+ Tonnage imported	+ Tonnage stored	= Total		
Glass							
Plastic							
Paper/cardboard (including composite)							
Ferrous metal							
Aluminium							
Wood							
Other							
Total							

TABLE 2 Quantity of <u>total</u> sales packaging (sales, grouped and transport) reused within the national territory							
	Tonnage of packaging placed made available on the market for the first time on the territory of that Member State	Reusable packaging		Reusable sales packaging			
		tonnage	Percentage of total reusable packaging	Tonnage	Percentage of total reusable sales packaging		
Glass							
Plastic <u>including composite</u>							
Paper/cardboard							

(includin g composi te packagin g)						PUBLIC	
Ferrous metal (includin g tinplate and composi te packagin g)							
Alumini um							
Wood							
Other							
total							

TABLE 3 <u>Quantity of generated packaging waste within the national territory and Quantity of separately collected packaging waste per material (sales, grouped and transport) generated within the national territory</u>				
Packaging material	Packaging wWaste generation (t)	From Packaging waste separately collectedion (t)		
Glass				
Plastic (rigid and flexible)				
Paper/cardboard (including composite)				

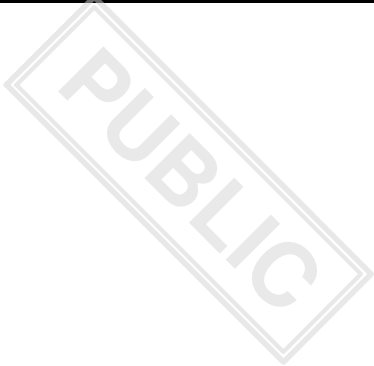
Metals (Ferrous metal and aluminium, including composite)			PUBLIC			
Wood						
Other						
Total						

TABLE 4 Quantity of packaging waste recovered and disposed of within the national territory <u>and exported</u>									
Packaging				Total	Quantity recycled	Quantity recovered			

			Total tonnage disposed of outside national territory	Total tonnage disposed of	tonnage recovered and disposed of	Tonnage	Percentage	Tonnage	Percentage		
Within the national territory											
Glass, including composite											
Plastic, PET	Rigid										
Plastic, PP											

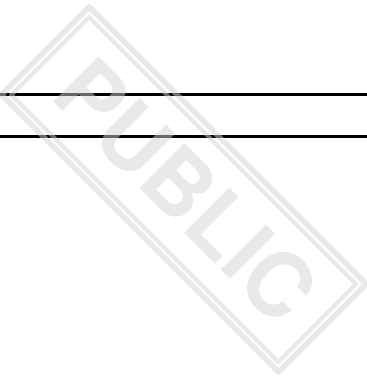


Packaging		Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered			
					Tonnage	Percentage	Tonnage	Percentage		
Plastic, HD PE and PP										
Plastic, PS										
Plastic, HD PE										



Plas tic,											

PV C											
Plas tic, PC											
Plas tic, EPS											
Plas tic, XP S											
Plas tic, PET	Flex ible										
Packaging		Tot al ton nag e	Tot al ton nag e	Tot al tonn age	Quantity recycled		Quantity recovered				
					Ton nag e	Perc enta ge	Ton nag e	Perc enta ge			



		dis pose d of outs ide nati ona l terr itor y	dis pose d of	reco vere d and dis pose d of							
Plas tic, PP											



Plas tic, PE											
Plas tic, mul ti- laye r											
Paper/card board (noncomposite)											
Composite Paper/card board											

Ferrous metal (including tinplate and composite packaging of which the										
Packaging	Total tonnage disposed of	Total tonnage disposed of	Total tonnage recovered and disp	Quantity recycled		Quantity recovered				
				Tonnage	Percentage	Tonnage	Percentage			



	ide national territory		ose d of							
majority is steel)										

Aluminium (including composite packaging of which the majority is aluminium)									
Wood									
Textile									
Ceramic, porcelain or stoneware									
Other									
Total packaging									
Packaging	Total tonnage disposed	Total tonnage disposed	Total tonnage recovered	Quantity recycled		Quantity recovered			
				Tonnage	Percentage	Tonnage	Percentage		

PUBLIC

	ose d of outs ide nati ona l terr itor y	osed of	d and disp ose d of								
waste											
Table 5 Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick plastic carrier bags per person, consumed within the national territory											
		Plastic carrier bags consumed within the national territory									
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>		Number per person			Tonnes per person						

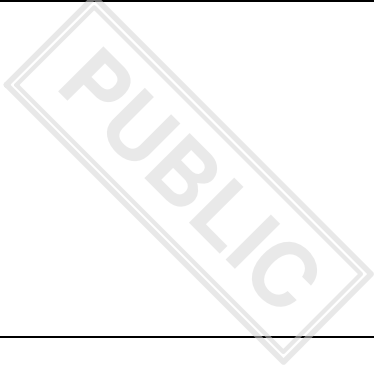
lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>			PUBLIC	
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>				
Table 6 Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)				
	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)		
Single use plastic beverage bottles with the capacity of up to 3 litres				

Single use metal beverage containers with a capacity of up to 3 litres				
Cluster 8 Remaining obligations of economic operators				
Recitals corresponding cluster 8				

(39) It should be recalled that all ~~compostable packaging~~ constituting a food contact material is packaging in contact with food, including compostable packaging, has to meet the requirements set out in <u>under the scope of set out in</u> Regulation (EC) No 1935/2004 on materials and articles intended to <u>be brought come</u> into contact with food <u>or already in contact with food</u>. Where appropriate, the documentation and information required according to the legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.		

(51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.		

(51a) 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 provides common principles and reference provisions for the drawing up of legislation harmonising the conditions for the marketing of products. In order to ensure consistency with other sectoral product legislation and to simplify application and enforcement, this regulation should be aligned to that Decision, unless specific circumstances require a different solution <u>in this Regulation. Therefore, the current Regulation should have recourse to that Decision 768/2008/EC should be used</u> as regards certain definitions, general obligations of economic operators, presumption of conformity,		
~~provisions regarding~~ formal objections against harmonised standards, ~~and~~ notification procedures, and the provisions concerning procedures dealing with products presenting a risk, <u>when not otherwise specified in this Regulation.</u>		

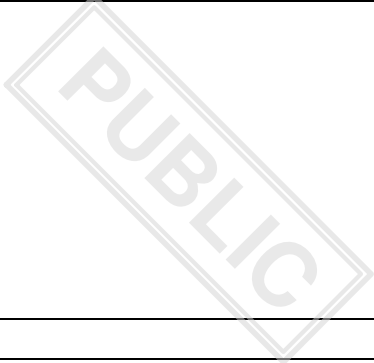
(52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should therefore remain solely the obligation of the manufacturer.		
(53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.		

(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market <u>complies</u> with this Regulation, whether imported as <u>self-standing standalone</u> packaging or ~~in~~ <u>as part of in association with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		
(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		

(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		
Definitions article 3 corresponding :		

(6) ‘making available on the market’ means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;		
(7) ‘placing on the market’ means the first making available of a packaging on the Union market;		
(8) ‘economic operator’ means manufacturers, suppliers of packaging, importers, distributors, authorised representative, final distributors, and fulfilment service providers;		

(9) ‘manufacturer’ means any natural or legal person who manufactures packaging under its own name or trademark, or has packaging designed or manufactured <u>under its own name or trademark</u> ~~and uses that packaging for the containment, protection, handling, delivery or presentation~~		
~~of products under its own name or trademark, without it having been placed on the market previously;~~		

(10) 'producer' means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State,</u>	(10) 'producer' means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark; ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ alternatively, is one of the following: ~~(v) — is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging — or — reusable — packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;~~ ~~(vi) — is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of~~	The revised definition is overly complex, does not bring clarity, and should revert to the original text

	~~service packaging and reusable packaging where (i) applies;~~ ~~(vii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;~~ ~~(viii) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.~~	

<u>with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		
(11) 'supplier' 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 or presentation of products under its own name or trademark;~~		

(12) 'importer' means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;		
(13) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;		
(14) 'authorised representative' means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer's obligations under this Regulation;		

<i>Article 13 Obligations of manufacturers</i>		
1. When placing packaging on the market, manufacturers shall ensure that the packaging complies with the following: (a) it has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; (b) it 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 VII. Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.		
3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10~~5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market.</u>		

4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may be affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.		

5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.		
6. Manufacturers shall indicate on the packaging or on a QR code or another data carrier their name, registered trade name or registered trade mark as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code or other type of digital data carrier referred to in Article 11(2) or the data carrier referred to in Article 11(4) or in a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.		

7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market 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.		

9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or~~ electronic form and, on request, in paper form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.		
<i>Article 14 Information obligations of suppliers of packaging or packaging materials</i>		

10. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the		
packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.		
11. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.		
<i>Article 15 Obligations of authorised representative</i>		

1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 13(1) and the obligation to draw up technical documentation referred to in Annex VII and required		
under Articles 5 to 10 shall not form part of the authorised representative's mandate.		

2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:

- (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~10~~ 5 years after ~~the~~ single-use packaging has been placed on the market, **and 10 years after reusable packaging has been placed on the market;**
- (b) cooperate with the national authorities, at their request, on any measures taken with regard to non-compliances of the packaging covered by the authorised representative's mandate;
- (c) further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging in a language or languages, which can be easily understood by that authority;



(d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request; (e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.		
<i>Article 16 Obligations of importers</i>		
1. Importers shall only place on the market packaging which is compliant with the requirements of Articles 5 to 11.		
2. Before placing packaging on the market, importers shall ensure the following: (a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical		

documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer; (b) the packaging is labelled in accordance with Article 11, (c) the packaging is accompanied by the required documents; (d) the manufacturer has complied with the requirements set out in Article 13(5) and (6). Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.		
3. Importers shall indicate on the packaging their name and their registered trade name or registered trade mark as well as the postal address, and, where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided via the data carrier or in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.		

4. Importers shall ensure that information provided in accordance with paragraph 3 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
5. Importers shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.		
6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.		

7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging		
available of the suspected non-compliance and of any corrective measures taken.		
8. Importers shall, for ~~10~~ 5 years after ~~the single-use~~ packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market,</u> keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.		

9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided ~~either in paper or in~~ electronic form and, on request, in paper form. The relevant documents shall		
be made available within 10 days of receipt of the request from the national authority.		
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 17 Obligations of distributors</i>		

1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.		
2. Before making packaging available on the market, distributors shall verify the following:		
(a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the register of producers referred to in Article ~~40~~39; (b) the packaging is labelled in accordance with Article 11; (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.		

3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer or importer is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or until the manufacturer complies. Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.		

4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken. Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~paper or~~ electronic form and, on request, in paper form.		

Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 18 Obligations of fulfilment service providers</i>		
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.		
<i>Article 19 Case in which obligations of manufacturers apply to importers and distributors</i>		

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 134, where they place packaging		
on the market under their own name or trademark or modify packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation		
<i>Article 20 Identification of economic operators</i>		
1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following: (a) the identity of any economic operator that has supplied them with packaging; (b) the identity of any economic operator to which they have supplied packaging.		

2. Economic operators shall be able to provide the information referred to in paragraph 1(a) for ~~10~~ 5 years after they have been supplied with the <u>single-use</u> packaging and ~~for~~ 10 years after they have <u>been</u> supplied <u>a reusable</u> packaging.		
<u>Economic operators shall be able to provide the information referred to in paragraph 1(b) 5 years after they have supplied the single-use packaging and for 10 years after they have supplied the reusable packaging.</u>		
<i>Article 49 Information on prevention and management of packaging waste</i>		

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 41(1), producer responsibility organisations shall make available to end-users, in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State:		

(a) the role of end-users in contributing to waste prevention, including any best practices; (b) re-use arrangements available for packaging; (c) the role of end-users in contributing to the separate collection of packaging waste materials, including handling of packaging containing hazardous products or waste; (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product; (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single-use packaging, in particular plastic carrier bags; (f) the composting properties and appropriate waste management options for compostable packaging. <u>Consumers shall be informed that compostable packaging is compostable in industrially controlled conditions and should not be thrown in home compost or nature.</u>		

Obligations under paragraph 1(d) shall be applicable as of <i>[OP: Please insert the date = 42 months after the entry into force of this Regulation]</i> or the date of application of Article 11, whichever is the latest.		
2. The information referred to in paragraph 1 shall be up to date and provided by means of: (a) a website or other means of electronic communication; (b) public information; (c) education programmes and campaigns; (d) signposting in a language, or languages, which can be easily understood by users and consumers.		
3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		

Cluster 9 Conformity		
Recitals corresponding cluster 9		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market comply<u>ies</u> with this Regulation, whether imported as <u>self-standing standalone</u> packaging or in ~~as part of~~ <u>in association with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		

(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		

(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate		
actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		

(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		

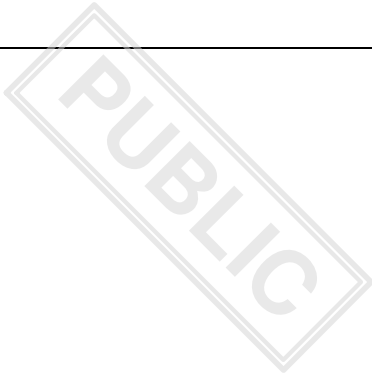
<i>Article 30 Test, measurement and calculation methods</i>		
For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, ~~and 21~~ and 29 24 of this Regulation, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.		

<i>Article 31 Presumption of conformity</i>		
1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been published in the <i>Official Journal of the European Union</i> , shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.		

2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Articles 5 to 11 and 24.		
<i>Article 32 Common ~~technical~~ <u>technical</u> specifications</i>		
1. Packaging which is in conformity with common technical specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 24 to the extent that those requirements are covered by those common technical specifications or parts thereof.		

PUBLIC

2. The Commission may, by means of implementing acts, establish common technical specifications for the requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled: (a) there is no harmonised standard covering the relevant requirements the reference of which is published in the <i>Official Journal of the European Union</i> or the standard does not satisfy the requirements it aims to cover; and (b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled: (i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed; (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the standards requested:		

• are not adopted within the deadline set in the request; • do not comply with the request; or • are not fully in line with the requirements they aim to cover. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>2a. Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.</u>		
3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard <u>are</u> published in the <i>Official Journal of the European Union</i>, the Commission shall assess whether implementing acts referred to in paragraph 2, or parts thereof		

which cover the same requirements set out in Articles 5 to 11 and Article 24 need to be repealed or amended.		
<u>3a.</u> <u>When a Member State considers that a common specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.</u>		
<i>Article 33 Conformity assessment procedure</i>		
Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.		

<i>Article 34 EU declaration of conformity</i>		
1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.		
2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed on the market or made available on the market.		

3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall, where appropriate, be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.		
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.		

<u>ANNEX VII</u>		
<u>CONFORMITY ASSESSMENT PROCEDURE</u>		
Module A		
Internal production control		
1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to 10 of this Regulation that apply to them.		

2. Technical documentation The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the		

design, manufacture and operation of the packaging. The technical documentation shall contain, wherever applicable, at least the following elements: (a) a general description of the packaging and of its intended use, (b) conceptual design, and manufacturing drawings and materials schemes of components, etc. (a) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging, (b) a list of: (i) the harmonised standards, referred to in Article 31, applied in full or in part (ii) the common technical specifications, referred to in Article 32, applied in full or in part (iii) other relevant technical specifications used for measurement or calculation purposes, (iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied,		

(iv) in the event of harmonised standards and/or common technical specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1. (c) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and, (d) test reports.		
3. Manufacturing The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.		
4. Declaration of conformity The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10		

years after the packaging has been placed on the market. The declaration of conformity shall identify the packaging for which it has been drawn up. A copy of the declaration of conformity shall be made available to the relevant authorities upon request.		
5. Authorised representative The manufacturer's obligations set out in point 4 as regards keeping of the technical documentation may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.		
<u>ANNEX VIII</u> <u>EU DECLARATION OF CONFORMITY NO* ...</u>		

1. No.... (unique identification of the packaging):		
2. Name and address of the manufacturer and, where applicable, its authorised representative.		
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.		
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.		

5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).		

6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.		
7. ~~The~~ Where applicable, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).		

8. Additional information Signed for and on behalf of: (place and date of issue): (name, function) (signature) * (identification number of the declaration)		

Cluster 10 Safeguard procedures		
Recitals corresponding cluster 10		

(83) Regulation (EC) No 765/2008 of the European Parliament and of the Council^[1] 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. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		

(123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 of the European Parliament and of the Council^[1] setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation. **The market surveillance mechanisms laid down by Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging.**

^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).



(124) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on noncompliance 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.		

(131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS) and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market	 A large, light gray, tilted rectangular stamp with the word "PUBLIC" in bold, capital letters.	

surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to identify packaging that may correspond to such a prohibition measure. The electronic ~~Electronic System~~ Customs Risk Management Control System (CRMS) set out in Article 36 of Commission Regulation (EU) 2447/2015, without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.		

(132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for that interconnection.	 A large, light gray, rectangular stamp with the word "PUBLIC" in bold, capital letters, oriented diagonally from the bottom-left to the top-right.	

(133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better LawMaking . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as		
Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical information, including relevant international standards.		
<i>Article 52 Procedure for dealing with packaging presenting a risk at national level</i>		

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

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. Where the market surveillance authorities consider that noncompliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions, which they have required the economic operator to take.		

4. The economic operator shall ensure that all appropriate corrective measures is taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		
5. Where the relevant economic operator does not take adequate corrective measures within the period referred to in paragraph 1, second subparagraph, or the non-compliance persists, the market surveillance authorities shall take all appropriate provisional measures to prohibit the making available of the packaging on their national market, to withdraw the packaging from that market or to recall it.		
The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.		

6. The information to the Commission and the other Member States referred to in paragraph 5 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 and, where applicable, the information referred to in Article 55 4—(1). The market surveillance authorities shall also indicate whether the noncompliance is due to either of the following: (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation;		
(b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.		

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

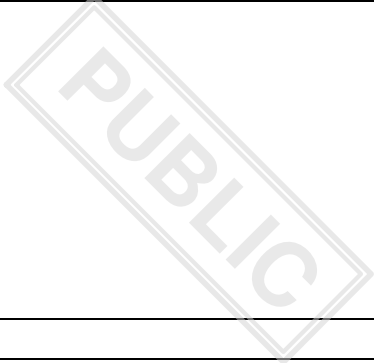
9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.		
<i>Article 53 Union safeguard procedure</i>	<i>Article 53 Union safeguard procedure</i>	Editorial
1. Where, on completion of the procedure set out in Article 52(3) (5) and (6) (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 by means of an implementing act whether the national measure is justified or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.		
3. Where the national measure is considered justified and the noncompliance 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 noncompliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.		
<i>Article 54 Compliant packaging which presents a risk</i>		

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

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		

4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the		
packaging, the nature of the risk involved and the nature and duration of the national measures taken.		

5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, propose appropriate measures. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3). On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 589(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.		

<i>Article 55 Controls on packaging entering the Union market</i>		

1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article 52(5) (4) of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the non-compliant packaging to which the measures apply and, in case of packaged product, the product itself. 1a. The authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.		
2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.		

3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article 52(56) to the environment referred to in paragraph 2 3-. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 4 5-.		
4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the implementation arrangements for paragraph 3 4- including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 4-. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).		

<i>Article 56 Formal non-compliance</i>		
1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned: (a) the EU declaration of conformity has not been drawn up (b) the EU declaration of conformity has not been drawn up correctly; (c) the QR code or data carrier referred to in Article 11 do not provide access to the required information in accordance with that Article; (d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors; (e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete; (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled;		

(g) the requirements on restrictions on uses of certain packaging formats and on excessive packaging set out in Articles 21 and 22 are not complied with; (h) in relation to reusable packaging, the requirements on the establishment, operation and participation in a system for reuse referred to in Article 24 are not fulfilled; (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled; (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled; (k) the re-use and refill targets in Article 26 are not achieved.		
2. Where the non-compliance referred to in paragraph 1, points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made available on the market or ensure that it is recalled or withdrawn from the market. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties		

applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.		
Cluster 11 Final Chapters		
Recitals corresponding cluster 11		

(134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ~~the requirements~~ related to the ~~plastic~~ recycled plastic content for plastic beverage bottles as of 1 January 2030 should be deleted from Directive (EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted. <u>As this Regulation does not regulate the recycled content in the plastic part in packaging before 1</u>		
<u>January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		

(134a) This Regulation establishes general rules applying to all packaging. However, ~~C~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) with the main purpose of that Directive being to prevent littering and its environmental impact. Directive (EU) 2019/904 is a *lex specialis* in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, unless specifically provided otherwise in this Regulation.

Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing

PUBLIC

restrictions. Because Directive (EU) 2019/904 is a *lex specialis* in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing

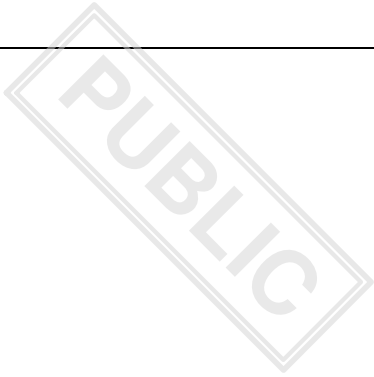
on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. **Therefore Article 22 in this Regulation**

PUBLIC

Re: highlighted text. We have previously indicated that we do not agree with the idea that SUPD can be *lex specialis* in some circumstances but not in others. In this case, if there are provisions in PPWR which should prevail over SUPD e.g. because they afford better environmental outcomes, then SUPD should be amended to remove the conflict and allow SUPD to retain *lex specialis* status

<u>should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<u>(134bis) As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		
(135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability requirements, the economic operators placing noncompliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective,		

proportionate and dissuasive penalties in national law for failure to comply with this Regulation.		
(136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.		
(137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the		

administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.		
(138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC should therefore be repealed.		

(139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this ~~Directive~~ Regulation should be deferred.		
(140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application of the system of own resources of the Union with regard to the own resource based on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.		

(141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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.		
<i>Article 58 Exercise of the delegation</i>		
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		

2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~, Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of ~~ten~~five years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end		
of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period.		

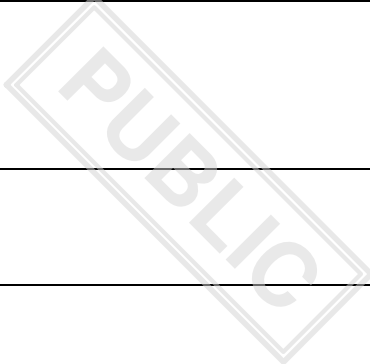
3. The delegation of power referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> 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 LawMaking.		

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
6. A delegated act adopted pursuant to Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That		
period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 59 Committee procedure</i>		

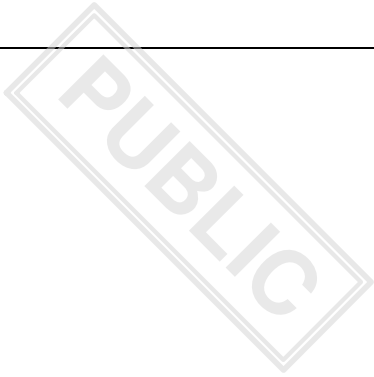
1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		
3. Where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

~~committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 72, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.~~ <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 55, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.</u>		
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 of that Regulation, shall apply.		

<i>Article 60 Amendments to Regulation (EU) 2019/1020</i>		
Regulation (EU) 2019/1020 is amended as follows: (a) Annex I is amended as follows: (i) point 9 is deleted; (ii) the following points are added: 'X [OP Please insert the next consecutive number] Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1); ~~'X [OP Please insert the next consecutive number] Regulation (EU) .../... on packaging and packaging waste, amending Regulation (EU) 2019/1020, and repealing Directive 94/62/EC [for the Publications Office to fill in the OJ publication details].~~ (b) in Annex II, point 8 is deleted.		

<i>Article 61</i> <i>Amendments to Directive (EU) 2019/904</i>		
Directive (EU) 2019/904 is amended as follows: <u>(aa) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’</u> <u>Article 22(4a) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards single use plastic packaging listed in Annex V point 3.</u> <u>[Article 26(2) and (3) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u> <u>[Article 45(4) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u>		Re text “[Article 45(4) shall prevail when in]” there does not appear to be an Article 45(4)? As previously noted, we feel the relationship between SUPD and PPWR should be clear and consistent – if SUPD is <i>lex specialis</i> it should prevail in all circumstances – it would be better to amend SUPD in a substantive way rather than have a signpost to individual provisions in PPWR that deviate from SUPD’s <i>lex specialis</i> status

(a) in Article 6(5), points (a) and point (b), is are deleted as of 1 January 2030; (b) in Article 13(1), point (e), is deleted as of 1 January 2030; (c) Article 13(3) is be replaced by ‘3. The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’		
<i>Article 62 Penalties</i>		
1. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], Member States shall lay		

down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ~~Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator.~~		
2. Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator. Where the legal system of the Member State does not provide for administrative fines, the first paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have equivalent effect to the administrative fines referred to in that paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.		

3. Member States shall, by [<i>OP: please insert the date = 1 year after the date of entry into force of this Regulation</i>], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 63 Evaluation</i>		

By [OP: Please insert the date = 8 years after the date of application of this Regulation], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of packaging. The Commission shall present a report on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the		
Commission with the information necessary for the preparation of that report.		
<i>Article 64 Repeal and transitional provisions</i>		

Directive 94/62/EC is repealed with effect from [*OP: Please insert the date = 12 months after the date of entry into force of this Regulation*].

However, the following transitional provisions shall apply:

- (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [*OP: Please insert the date = 42 months after the date of entry into force of this Regulation*];
- (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [*OP: Please insert the date = the last day of the calendar year following 36 months after the data entry into force of this Regulation*];
- (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [*OP: Please insert the date = the last*



day of the ~~same~~ calendar year ~~following~~ in which the period of 36 months after the date of entry into force ends of this Regulation], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months after the date entry into force of this Regulation]. <u>(ca) Commission Decision 2001/171/EC and Commission Decision 2009/292/EC shall remain into force and continue to apply until repealed by delegated acts adopted by the Commission adopted pursuant to Article 5(5a) of this Regulation.</u> References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.		
<i>Article 65 Entry into force and application</i>		

This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States.		PUBLIC	
ANNEX XIII CORRELATION TABLE			
Directive 94/62/EC	This Regulation		
Article 1(1)	Article 1(1-2)		
Article 1(2)	Article 1(3)		
Article 2(1)	Article 2(1)		
Article 2(2)	Article 2(2)		
Article 3(1), first subparagraph	Article 3(1)		
Article 3(1), second subparagraph, point (a)	Article 3(2)		
Article 3(1), second subparagraph, (b)	Article 3(3)		
Article 3(1), second subparagraph, point (c)	Article 3(4)		
Article 3(1), third subparagraph, point (i)	Article 3(1)(a)		

Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)		
Article 3(1), third subparagraph, point (iii)	Article 3(1)(b-c)		
Article 3(1a)	Article 3(43)		
Article 3(1b)	Article 3(44)		
Article 3(1c)	Article 3(45)		
Article 3(1d)	Article 3(46)		
Article 3(1e)	---		
Article 3(2)	Article 3(20)		
Article 3(2a)	Article 10(1)		
Article 3(2b)	Article 3(19)		
Article 3(2c)	Article 3(60) and fourth subparagraph of Article 3		
Article 3(11)	Article 3(8)		
Article 3(12)	---		
Article 4(1), first subparagraph	Article 38(2)		
Article 4(1), second subparagraph	---		
Article 4(1), third subparagraph	Article 38(3)		
Article 4(1a), first subparagraph	Article 29(1), first subparagraph		
Article 4(a1a), second subparagraph	Article 29(2), second sentence		
Article 4(a1a), third subparagraph	Article 29(2), first sentence		

Article 4(1a), fourth subparagraph, point (a)	Article 29(1), second subparagraph		
Article 4(1a), fourth subparagraph, point (b)	Article 29(4)		
Article 4(1a), fifth subparagraph	Article 50(1), point (b)		

Article 4(1a), sixth subparagraph	Article 50(7), point (b)		
Article 4(1b)	Article 29(3)		
Article 4(1c)	---		
Article 4(2)	---		
Article 5(1)	Article 45(1)		
Article 5(1)(a)	Article 45(2), point (a)		
Article 5(1)(b)	Article 26(1-10)		
Article 5(1)(c)	Article 45(2), point (b)		
Article 5(1)(d)	Article 45(2) point (c)		
Article 5(2), first subparagraph	Article 48(1), first subparagraph		
Article 5(2), second subparagraph, point (a)	Article 48(1), second subparagraph, point (a)		
Article 5(2), second subparagraph, point (b)	Article 48(1), second subparagraph, point (b)		
Article 5(2), third subparagraph	Article 48(1), third subparagraph		
Article 5(3)	Article 48(2)		
Article 5(4)	Article 50(7), point (a)		
Article 5(5)	---		

Article 6(1)(a)	---		
Article 6(1)(b)	---		
Article 6(1)(c)	---		
Article 6(1)(d)	---		
Article 6(1)(e)(i)	---		
Article 6(1)(e)(ii)	---		
Article 6(1)(e)(iii)	---		
Article 6(1)(e)(iv)	---		
Article 6(1)(e)(v)	---		
Article 6(1)(f)	Article 46(1)(a)		

Article 6(1)(g)(i)	Article 46(1)(b)(i)		
Article 6(1)(g)(ii)	Article 46(1)(b)(ii)		
Article 6(1)(g)(iii)	Article 46(1)(b)(iii)		
Article 6(1)(g)(iv)	Article 46(1)(b)(iv)		
Article 6(1)(g)(v)	Article 46(1)(b)(v)		
Article 6(1)(g)(vi)	Article 46(1)(b)(vi)		
Article 6(1)(h)	Article 46(1)(c)		
Article 6(1)(i)(i)	Article 46(1)(d)(i)		
Article 6(1)(i)(ii)	Article 46(1)(d)(ii)		
Article 6(1)(i)(iii)	Article 46(1)(d)(iii)		
Article 6(1)(i)(iv)	Article 46(1)(d)(iv)		
Article 6(1)(i)(v)	Article 46(1)(d)(v)		
Article 6(1)(i)(vi)	Article 46(1)(d)(vi)		
Article 6(1a)(a)	Article 46(2)(a)		

Article 6(1a)(b)	Article 46(2)(b)	PUBLIC	
Article 6(1a)(c)	Article 46(2)(c)		
Article 6(1a)(d)	Article 46(2)(d)		
Article 6(1b)	Article 46(3)		
Article 6(1c)	Article 46(4)		
Article 6(4)(a)	Article 46(5)(a)		
Article 6(4)(b)	Article 46(5)(b)		
Article 6(6)	Article 49(2)		
Article 6(7)	---		
Article 6(10)	Article 46(6)		
Article 6(11)	---		
Article 6a(1)(a)	Article 47(2)		
Article 6a(1)(b)	Article 47(3)		
Article 6a(2)	Article 47(6)		
Article 6a(2)(a)	Article 47(6)(a)		
Article 6a(2)(b)	Article 47(6)(b)		

Article 6a(3)	Article 47(7)		
Article 6a(4)	Article 47(8)		
Article 6a(5)	Article 47(9)		
Article 6a(6)	Article 47(10)		
Article 6a(7)	Article 47(11)		
Article 6a(8)	Article 47(12)		
Article 6a(9)	Article 50(7), point (a)		
Article 6b	Article 36		

Article 7(1)	Article 43(1) and (2)	PUBLIC	
Article 7(2)	Articles 39-42		
Article 7(3)	Article 43(3)		
Article 7(4)	Article 43(4)		
Article 8(1)	Article 11		
Article 8(2)	Article 11(1)		
Article 8(3)	Article 11(4)		
Article 8a	Article 11(1) and (5)		
Article 9(1)	Articles 5-10		
Article 9(2)(a)	Article 31		
Article 9(2)(b)	---		
Article 9(3)	---		
Article 9(4)	---		
Article 9(5)	---		
Article 10	Article 31(2)		
Article 11(1)	Article 5(2)		
Article 11(2)	---		
Article 11(3)	Article 5(5)		
Article 12(1)	Article 51(1)		
Article 12(2)	Article 51(2)		
Article 12(3a)	Articles 50(1) point (a), 50(3) point (a) and 50(4)		
Article 12(3b)	Article 50(5) and 50(6)		
Article 12(3c)	-		
Article 12(3d)	Article 50(7)		

Article 12(4)	Article 50(8)
Article 12(6)	Article 50(8)
Article 13, first subparagraph	Article 49(1)
Article 13, second subparagraph	---
Article 14	Article 37
Article 15	Article 29, Article 38, Article 45
Article 16(1)	---
Article 16(2)	---
Article 18	Article 4
Article 19(1)	---
Article 19(2)	---
Article 20	---
Article 20a(1)	---
Article 20a(2)	---
Article 20a(3)	---
Article 21(1)	Article 59(1)
Article 21(2), first subparagraph	Article 59(3), first subparagraph
Article 21(2), second subparagraph	Article 59(3), second subparagraph
Article 21a(1)	Article 58(1)
Article 21a(2)	Article 58(2)
Article 21a(3)	Article 58(3)
Article 21a(4)	Article 58(4)
Article 21a(5)	Article 58(5)



Article 21a(6)	Article 58(6)		
Article 22(1)	---	PUBLIC	
Article 22(2)	---		
Article 22(3)	---		
Article 22(3a), first subparagraph	---		
Article 22(3a), second subparagraph, point (a)	---		
Article 22(3a), second subparagraph, point (b)	---		
Article 22(3a), second subparagraph, point (c)	---		
Article 22(3a), second subparagraph, point (d)	---		
Article 22(3a), second subparagraph, point (e)	---		
Article 22(3a), second subparagraph, point (f)	---		
Article 22(4)	---		
Article 22(5)	---		
Article 23	---		
Article 24	---		
Article 25	---		
Annex I	Annex I		
Annex II, point 1	Articles 5, 6, 9 and 10 and Annexes II and IV		
Annex II, point 2	Article 10 and Annex IV		

Annex II, point 3(a)	Article 6 and Annex II	PUBLIC	
Annex II, point 3(b)	---		
Annex II, point 3(c)	Articles 8 and 3(41) and Annex III		
Annex II, point 3(d)	Articles 8 and 3(41) and Annex II		
Annex III	Annex XII		
Annex IV	Annex XI		

ANNEX I – PART 2 OF THE TEXT REV01. CLUSTER 2, 4 AND 5.

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 2,4 and 5 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 2 – Labelling, marking and information requirements		
<i>Recitals corresponding cluster 2:</i>		
(44) It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles.	(44) It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles. Waste receptacles meaning bags and cointainers.	The Polish system of municipal waste collection involves the use of both bags and containers, so it should be clarified that both bags and containers are to be properly marked.

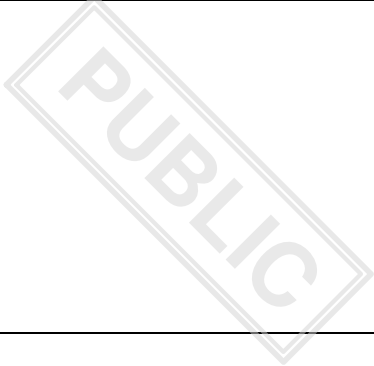
(45) To facilitate consumers ~~in the~~ sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. <u>It is only specifically home-compostable packaging which is suitable for home-composting.</u> This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through	(45) To facilitate consumers ~~in the~~ sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-	The addition of a harmonised label to DRS labels in Member States where a national label or marking has been in use for many years and is well understood by consumers may cause confusion among consumers. A harmonised DRS label may also lead the consumer to believe that the deposited packaging can be returned to any DRS collection point in the EU, which is not the case. The possibility of keeping national labels alongside the harmonized EU label may prevent existing barriers for entrepreneurs from being removed, and what is more, new barriers may emerge. It seems that maintaining country-specific labeling requirements alongside an EU-harmonized label risks violating the principle of free movement of goods and may lead to counter-productive effects on the environment. Such measures may also increase the demand for additional labeling materials and generate additional waste due to larger than necessary packaging sizes. Provisions drafted in this regard must not create unnecessary burdens for trade in the internal market

municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.	waste treatment facilities with industrial composting or anaerobic digestion. <u>It is only specifically home-compostable packaging which is suitable for home-composting.</u> This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. ~~It is also necessary to harmonise symbols associated with the mandatory deposit and return systems.~~ Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport	

	packaging with the exception of the e-commerce packaging.	

(46)	Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.	
(47)	In order to inform end-users about reusability, availability of systems for re-use and location of collection points as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code <u>may contain information</u>	

~~<u>which should also</u>~~ facilitates tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale.		
(48) There should be no multiplication of labels on packaging. In order to avoid this, where other Union legislation requires information on the packaged product to be available digitally through a data carrier, the information required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. <u>Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable promoting</u>		

<u>circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging circularity.</u>		
(49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It should be possible to identify packaging included in the extended producer responsibility scheme by means of an accreditation symbol throughout the territory of that system. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging. To this end, it could be considered that the Green Dot symbol, which is used in some Member States to signify that a producer has made a financial contribution to a national packaging recovery system¹, could mislead		

consumers to believe that packaging bearing such a symbol is always recyclable. ¹ https://www.pro-e.org/the-green-dot-trademark		
<u>(49a) Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>	<u>(49a) Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>	The addition of a harmonised label to DRS labels in Member States where a national label or marking has been in use for many years and is well understood by consumers may cause confusion among consumers. A harmonised DRS label may also lead the consumer to believe that the deposited packaging can be returned to any DRS collection point in the EU, which is not the case. The possibility of keeping national labels alongside the harmonized EU label may prevent existing barriers for entrepreneurs from being removed, and what is more, new barriers may emerge. It seems that maintaining country-specific labeling requirements alongside an EU-harmonized label risks violating the principle of free movement of goods and may lead to counter-productive effects on the environment. Such measures may also increase the demand for additional labeling materials and generate additional waste due to larger than necessary packaging sizes. Provisions drafted in this regard

		must not create unnecessary burdens for trade in the internal market
(49ab) [Placeholder: Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between the provisions of the Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, provides that displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]		
(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the	(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt	The addition of a harmonised label to DRS labels in Member States where a national label or marking has been in use for many years and is well understood by consumers may cause confusion among consumers. A

Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of <u>standardised, open,</u> digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should <u>keep linguistic elements to a minimum and</u> take into account scientific or other available technical information, including relevant international standards. <u>The labelling of packaging subject to a harmonised deposit and return system should be designed with consideration given to the different countries' currency deposit system variation in the deposit being charged, which may exist between Member States.</u> In view of the new system, Commission Decision 97/129/EC² should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.	implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of <u>standardised, open,</u> digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should <u>keep linguistic elements to a minimum and</u> take into account scientific or other available technical information, including relevant international standards. ~~<u>The labelling of packaging subject to a harmonised deposit and return system should be designed with consideration given to the different countries'</u>~~	harmonised DRS label may also lead the consumer to believe that the deposited packaging can be returned to any DRS collection point in the EU, which is not the case. The possibility of keeping national labels alongside the harmonized EU label may prevent existing barriers for entrepreneurs from being removed, and what is more, new barriers may emerge. It seems that maintaining country-specific labeling requirements alongside an EU-harmonized label risks violating the principle of free movement of goods and may lead to counter-productive effects on the environment. Such measures may also increase the demand for additional labeling materials and generate additional waste due to larger than necessary packaging sizes. Provisions drafted in this regard must not create unnecessary burdens for trade in the internal market

² 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).

	~~currency deposit system variation in the deposit being charged, which may exist between Member States.~~ In view of the new system, Commission Decision 97/129/EC³ should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.	
Article 11 Labelling of packaging		
1. From <u>42 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest,</u> ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, packaging <u>packaging placed on the market</u> shall be marked with a label containing information on its material composition <u>and including</u> for the packaging referred to in <u>Article 8(1) and (2), that the material is compostable.</u> This	1. From <u>42 60 months after the entry into force of this Regulation or 2436 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest,</u> ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, packaging <u>packaging</u>	Given the time needed to adapt production processes to the new labelling requirements, it seems reasonable to extend the transitional period.

³ 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).

obligation does not apply to transport packaging. However, it applies to e-commerce packaging. Packaging subject to deposit and return systems referred to in Article 44(1) shall, ~~in addition to the labelling referred to in the first subparagraph~~, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.	<u>placed on the market</u> shall be marked with a label containing information on its material composition <u>and including for the packaging referred to in Article 8(1) and (2), that the material is compostable.</u> This obligation does not apply to transport packaging. However, it applies to e-commerce packaging. ~~Packaging subject to deposit and return systems referred to in Article 44(1) shall, in addition to the labelling referred to in the first subparagraph, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.~~	
2. <u>Reusable packaging placed on the market ~~from 48 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest~~</u> ~~[OP: Please insert the date = 48 months after the date of entry into force of this Regulation]~~, packaging shall bear a label <u>informing that it the packaging is reusable</u> ~~on packaging reusability~~ and a QR code or other type of <u>standardized, open,</u> digital data carrier that provides further	2. <u>Reusable packaging placed on the market ~~from 48 60 months after the entry into force of this Regulation or 24 36 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest~~</u> ~~[OP: Please insert the date = 48 months after the date of entry into force of this Regulation]~~, packaging shall bear a label <u>informing that it the packaging is reusable</u> ~~on packaging reusability~~ and a QR code or other type of <u>standardized, open,</u> digital data carrier that provides	Given the time needed to adapt production processes to the new labelling requirements, it seems reasonable to extend the transitional period.

information on packaging reusability including the availability of a <u>local, national or EU-wide</u> system for re-use and ~~of information on~~ collection points, and that facilitates the tracking of 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.	further information on packaging reusability including the availability of a <u>local, national or EU-wide</u> system for re-use and ~~of information on~~ collection points, and that facilitates the tracking of 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 ~~If~~ a unit of packaging ~~is covered by Article 7~~ placed on the market from <u>42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest</u> ~~{OP: Please insert the date = xx months after the entry into force of this Regulation}~~, and is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).	3. Where ~~If~~ a unit of packaging ~~is covered by Article 7~~ placed on the market from <u>42 60 months after the entry into force of this Regulation, 24 36 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest</u> ~~{OP: Please insert the date = xx months after the entry into force of this Regulation}~~, and is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be	Given the time needed to adapt production processes to the new labelling requirements, it seems reasonable to extend the transitional period.

	based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).	
4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly ~~and indelibly~~ on the packaging; and the information shall be available to end users before the purchase of the product in distance sales <u>when the product is sold online</u> ~~e. 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.~~ The information contained in the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made available on the market.		

Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.		
5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 and the labelling of waste receptacles referred to in Article 12. <u>The Commission shall take into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States² different currencies and deposits system.</u> ~~The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).	5. By [OP: Please insert the date = ~~18~~12 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 and the labelling of waste receptacles referred to in Article 12. <u>The Commission shall take into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States² different currencies and deposits system.</u> ~~The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~ Those implementing acts shall be adopted	Given the time needed to adapt production processes to the new labelling requirements, it seems reasonable to reduce the time for issuing the act from 18 months to 12 months in order to allow sufficient time for entrepreneurs to adapt to the new requirements.

	in accordance with the examination procedure referred to in Article 59(3).	
6. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</u> <u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>	6. By [OP: Please insert the date = 24 12 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</u>	Given the time needed to adapt production processes to the new labelling requirements, it seems reasonable to reduce the time for issuing the act from 24 months to 12 months in order to allow sufficient time for entrepreneurs to adapt to the new requirements.

	<u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>	
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.		
8. Packaging included in an extended producer responsibility scheme ~~or covered by a deposit and return system other than that referred to in Article 44(1)~~ may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.		
<u>8a. Packaging covered by a deposit and return system referred to in Article 44(1) shall be labelled with the harmonised label in</u>		The possibility of keeping national labels alongside the harmonized EU label may prevent existing barriers for

<u>accordance with paragraph 1. These packaging may, in addition, by virtue of national law and on the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. The symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</u>		entrepreneurs from being removed, and what is more, new barriers may emerge. It seems that maintaining country-specific labeling requirements alongside an EU-harmonized label risks violating the principle of free movement of goods and may lead to counter-productive effects on the environment. Such measures may also increase the demand for additional labeling materials and generate additional waste due to larger than necessary packaging sizes. Provisions drafted in this regard must not create unnecessary burdens for trade in the internal market
<i>Article 12 Labelling of waste receptacles for the collection of packaging waste</i>		
<u>1a. By 1 January 2028, ~~OP: Please insert the date = 42 months after the entry into force of this Regulation~~, 42 months after the entry into force of this Regulation, or 24 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest, Member States shall ensure that labels that enable the separate collection of each material specific fraction</u>	<u>1a. By 1 January 2028, ~~OP: Please insert the date = 42 months after the entry into force of this Regulation~~, 42 60 months after the entry into force of this Regulation, or 24 36 months after the entry into force of the implementing acts referred to in paragraph 1b, whichever is the latest, Member States shall ensure that labels that enable the</u>	Given the time needed to revise the existing labelling/marketing rules for packaging waste collection receptacles, it seems reasonable to extend the implementation period from 42 months to 60 months to allow sufficient time for Member States to comply with the new requirements.

of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ are affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. <u>A receptacle for packaging waste may bear more than one label.</u> This obligation does not apply to receptacles covered by a deposit and return system.	separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ are affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. <u>A receptacle for packaging waste may bear more than one label.</u> This obligation does not apply to receptacles covered by a deposit and return system.	
1b. By [<i>OP: Please insert the date = 18 months after the date of entry into force of this Regulation</i>], the Commission shall adopt implementing acts to establish harmonised labels and specifications for the labelling requirements and formats for the labelling of the receptacles referred to in paragraph 1a. <u>When developing the implementing act, t</u>~~The Commission shall take into account the specificities of the collection systems established in the Member States as well as the specificities of composite packaging when developing the implementing act.~~ The labelling for receptacles shall correspond to the labelling for packaging as referred to in ~~a~~Article 11(5) with the exception of labelling for packaging covered by deposit and return systems. Those implementing acts	1b. By [<i>OP: Please insert the date = ~~18~~12 months after the date of entry into force of this Regulation</i>], the Commission shall adopt implementing acts to establish harmonised labels and specifications for the labelling requirements and formats for the labelling of the receptacles referred to in paragraph 1a. <u>When developing the implementing act, t</u>~~The Commission shall take into account the specificities of the collection systems established in the Member States as well as the specificities of composite packaging when developing the implementing act.~~ The labelling for receptacles shall correspond to the labelling for packaging as referred to in ~~a~~Article 11(5) with the exception of labelling for packaging covered by deposit and return systems. Those implementing acts shall be adopted in accordance	Given the time needed for the revision of the existing labelling/markings rules packaging waste collection receptacles, it seems reasonable to reduce the time for the act from 18 months to 12 months in order to allow Member States sufficient time to adapt to the new requirements.

shall be adopted in accordance with the examination procedure referred to in Article 59(3).	with the examination procedure referred to in Article 59(3).	
Cluster 4 Waste prevention		
<i>Recitals corresponding cluster 4:</i>		
<u>(10a) Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are not designed and intended to be filled at the point of sale. Only when these items are designed and intended to be filled at the point of sale or offered for sale pre-filled, they should be considered packaging, provided that they perform a packaging function.</u>		
(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions. 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 13428:2000^[1], should therefore be modified. 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 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. 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.

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



(41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space ~~in~~ grouped and transport packaging, including e-commerce packaging.		
(42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and specify measurable design criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.		
(60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space ratio		

should be set on economic operators who fill the packaging and in terms of reducing the empty space when for the using of such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or end user, the empty space ratio should not exceed 40 %. In line with the waste hierarchy and to promote packaging innovation with the aim of packaging waste reduction, it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation.		
(61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and food hygiene, and facilitate the achievement of the packaging waste prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the list. <u>The Commission will publish guidelines explaining in more detail Annex V, including</u>		

<u>examples of the packaging and guidance as regards the exemptions.</u>		
(72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council^[1]. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements.		

^[1] 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).		
(73) In view of the results of the evaluation study on plastic carrier bags^[1], 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. ^[1] 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) <u>To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory,</u>~~The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory~~ <u>may adopt measures which</u> include banning these types of plastic carrier bags, ~~the use of~~ implementation of national reduction targets, maintaining or introducing economic instruments as well as other marketing restrictions, provided that these ~~restrictions~~		

measures are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.	(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, except where these play an important role in preventing food waste, 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, where environmentally beneficial and where this does not undermine the benefits in terms of preventing food waste, from single use packaging to reusable packaging.	Before imposing strict measures to prevent packaging waste, the role of packaging should be considered. Packaging materials that extend shelflife play an important role in preventing food waste; only the amount of excessive packaging placed on the market should be reduced.

(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users		

further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g.-i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) ~~with the main purpose of that Directive being to prevent littering and its environmental impact~~. Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should		

prevail within the scope of its application, unless specifically provided otherwise in this Regulation.

Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to



<u>establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<i>Articles</i>		
<i>Definitions from Article 3 regarding cluster 4:</i>		
(21) ‘packaging waste prevention’ means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, <u>including re-use and measures to extend the life of the packaging before it becomes waste.</u>		
<i>Article 9 Packaging minimisation</i>		
		It seems reasonable to set a period of at least 24 months for economic operators

		to comply with the proposed requirements.
~~1. Packaging shall be~~ The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.		
2. The manufacturer or importer shall ensure that packaging ~~not necessary to~~ complying with any of the performance criteria set out in Annex IV ~~and/or~~ 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 subject to geographical indications of origin protected under Union legislation.		
~~3. The economic operator who fills the packaging shall ensure that e~~ Empty space shall be is reduced to the minimum necessary for ensuring the packaging functionality, including product protection, as follows:		

~~(a) for sales packaging, in relation to the total volume of the packaged product and its characteristics;~~ ~~(b) for grouped and transport packaging, including e-commerce packaging, in relation to the total volume of the grouped or transported products and their sales packaging;~~ ~~For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.~~		
4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements: (a) an explanation of the technical specifications, standards, and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV; (b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria;		

(c) any test results, studies or other relevant sources such as modelling and simulation studies used to assess the minimum necessary volume or weight of the packaging. For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, and in the first place the requirements set out thereof.		
4a. months after entry into force of this Regulation, the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. <u>For certain most common packaging types and formats such standards should and specifying</u> maximum adequate weight and volume limits, and, if appropriate, <u>wall thickness and _maximum empty space for certain most common packaging types and formats.</u>		
<i>Article 21 Obligation related to excessive packaging</i>		It seems reasonable to set a period of at least 36 months for economic operators

		to comply with the proposed requirements.
1. Economic operators who supply products 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 %.		
2. For the purpose of this calculation: (a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein; (b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-commerce packaging. Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene		

or Styrofoam chips <u>or other filling materials</u> , shall be considered as empty space.		
<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>		
3. Economic operators using sales packaging as e-commerce packaging <u>or using reusable packaging</u> shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements set out in Article 9.		

<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>		
<i>Article 22 Restrictions on use of certain packaging formats</i>		It should be re-examined whether a ban is necessary if the packaging indicated in Annex V meets the other requirements laid down in the PPWR.
1. <u>At the latest, three years after entry into force of this Regulation,</u> ~~E~~economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.		
2. ~~By way of derogation from paragraph 1, economic operators shall not place on the market packaging in the formats and~~		

<u>for the purposes listed in point 3 of Annex V as of 1 January 2030.</u>		
3. Member States may exempt micro-enterprises defined in accordance with the Commission Recommendation 2003/361/EC, ~~economic operators~~ from point 3 of Annex V if they ~~comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361~~, as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation], ~~and where~~ if it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.		
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend Annex V in order to adapt it to technical and scientific progress with the objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the		The list indicated in Annex V will have a direct impact on all actors introducing packaging products in the territory of each EU country. In our view, the act indicated in paragraph 4 should not be delegated.

restrictions on the use of specific packaging formats to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.	PUBLIC	
4a. <u>48</u> months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, explaining in more detail Annex V, including examples of the packaging <u>formats in scope</u> and <u>guidance as regards the any</u> exemptions.		
<i>Article 29 Plastic carrier bags</i>		

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, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.		
2. Measures to be taken by Member States to meet the target set out in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include the banning of lightweight plastic carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory.		
3. In addition to the measures under paragraphs 1 and 2 above, Member States may take measures, such as economic instruments, and national reduction targets, as regards any kind of plastic carrier		

bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		
<u>3a.</u> <u>In case the Member State adopts national reduction targets concerning certain plastic carrier bags, they can introduce measures to achieve such targets, which may, by way of derogation from Article 4, include the banning of such carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory . If the measures take the form of bans, Member States shall monitor the effects of such measures and revoke the measures immediately in case there is a risk the end users can replace the use of banned carrier bags with a product having a more detrimental impact on the environment.</u>		
4. Member States may exclude very lightweight plastic carrier bags ~~which~~ <u>that which</u> are required for hygiene purposes or provided as sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		
<i>Article 38 Prevention of packaging waste</i>		

1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by 2030; 1. 10 % by 2035; 1. 15 % by 2040.	2. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by ~~2030~~ 2035; 2. 10 % by ~~2035-2040~~; 3. 15 % by ~~2040~~ 2045.	The deadlines indicated in paragraph 1 for reducing per capita packaging waste generation appear to be too short to achieve the indicated targets. Therefore, in Poland's view, it is reasonable to extend these deadlines by 5 years.
2. Member States shall implement measures aiming to prevent the generation of packaging waste and to minimise the environmental impact of packaging.		
3. For the purpose of paragraph 2, Member States may introduce packaging waste prevention measures going beyond the		

minimum measures set out in this Article, while complying with the provisions set out in this Regulation. Such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC, or other appropriate instruments and measures, including incentives through extended producer responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. ~~Such measures~~ They shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
<u>3a. By way of derogation from paragraph 1, Member States may at the latest by [xx] request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2-3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under the condition that the Member State provide substantiated evidence (i) of a significant increase of packaging waste during</u>		

<u>the year to be used for base as calculation of the targets under paragraph 1 (ii) that such increase is due to changes in the reporting procedures only, and (iii) the increase is not due to an increased consumption.</u>		
4. By [<i>OP: Please insert the date = 8 years after the date of entry into force of this Regulation</i>], 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 the Commission finds it appropriate, by a legislative proposal.		
~~5. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article.~~		

<u>ANNEX IV</u> <u>METHODOLOGY FOR PACKAGING MINIMISATION</u> <u>ASSESSMENT</u>		
PART I Performance criteria		
1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.		
2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. The packaging manufacturing processes may determine packaging design elements such as the shape of a		

container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.		
3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. Requirements may consist of dimensional co-ordination for optimum space utilisation, compatibility with palletizing and de-palletizing systems, handling and warehousing system, packaging system integrity during transport and handling.		
4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. Requirements may consist of		

providing product information, instructions for storage, application and use, bar codes, best before date, etc.		
5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. Requirements may consist of: safe handling design, child resistance, tamper evidence, hazard warnings, clear identification of content, safe opening device, pressure release closure, etc.		
6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.		
7. Recycled content, recyclability and re-use: The packaging design shall ensure reusability, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. This means that the packaging		

weight or volume may have to be increased, beyond what would otherwise be possible under the other performance factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material).		
PART II Assessment methodology and determination of the minimum packaging volume and weight		
The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:		
~~(b)~~ (aa) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;		

(a) (ab) for each performance criterion as listed in Part I, ~~a list of design requirements~~ a description shall be made which explains the design requirement that ~~which~~ prevents further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging material shall be investigated. It shall not be sufficient to substitute one packaging material with another;		
(c) any test results, market research or studies that have been used for the assessment conducted under points (aa) and (ab).		

ANNEX V					
RESTRICTIONS ON USE OF PACKAGING FORMATS					
	Packaging format	Restricted use	Illustrative example		
1	Single-use plastic grouped packaging	Plastic packaging used at <u>the point of sale</u> ~~retail level~~ to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage <u>consumers</u> ~~and users~~ to purchase more than one product. This	Collation films, shrink wrap		

		excludes grouped packaging necessary to facilitate handling in <u>business-to-business</u> distribution.			
2	Single use ~~plastic packaging,~~ ~~single use composite packaging or other~~ single use packaging for <u>unprocessed</u> fresh fruit and vegetables	Single use packaging for less than 1.5 kg <u>pre-packed</u> fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards or physical shocks, <u>oxidation,</u>	Nets, bags, trays, containers		

		<u>with the exemption of packaging needed to avoid commingling of organic fruits and vegetables with non-organic fruits and vegetables according to Regulation (EU) 2018/848. Exemptions can also be made in the case there is no other possibility to comply with the requirements in regulation EU 2018/848, such as</u>			

PUBLIC

		<u>certification or labelling.</u>			
3	Single use ~~plastic packaging,~~ ~~single use composite packaging or other single use packaging~~	Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by	Trays, disposable plates and cups, bags, ~~foil~~ , boxes		

		several economic operators or third party for the purpose of food and drinks consumption. <u>Packets and wrappers made from flexible material for the purpose of containing food that is intended for immediate consumption from the packet or wrapper without any further preparation, may be exempted.</u>			

4	Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector	Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation	Sachets, tubs, trays, boxes	PUBLIC	
5	Single use hotel miniature packaging	For <u>disposable</u> cosmetics, hygiene and toiletry products of	Shampoo bottles, hand and body lotion bottles, sachets around		

		less than 50 ml for liquid products or less than 100 g for non-liquid products <u>for the use in the accommodati on sector, according to NACE Rev. 2 – Statistical classification of economic activities^[1], intended for a single service and discarded before the next guest arrives.</u> ^[1] NACE code I55, list can be found in EUROPA - Competition - Cases by NACE code - I	miniature—bar soap		

Cluster 5 General provisions including the legal basis (Articles 1,2,4)		
<i>Recitals</i>		
(1). Products need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Prevention of barriers ~~to~~on the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause additional cost to the economic operators.		
(2). In addition, packaging uses high amounts of virgin materials (40 % of plastics and 50 % of paper use in the Union is for packaging) and represents 36 % of municipal solid waste^[1]. High and constantly growing levels of packaging generated as well as low levels of re-use and poor recycling, present significant barriers to achieving a low-carbon circular economy. For these reasons, this Regulation should establish rules over the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and reducing the		

adverse impacts of packaging and packaging waste on the environment and human health. By laying measures in line with the hierarchy of waste, it should contribute to the transition to a circular economy. ^[1] Eurostat, Packaging waste statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics		
(3) .European Parliament and Council Directive 94/62/EC^[1] lays down requirements for Member States on packaging, such as essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and recovery and recycling targets. ^[1] European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).		
(4) .In 2014, a Fitness Check relating to Directive 94/62/EC^[1] recommended adaptations of the essential requirements to make them “more concrete and easily enforceable” and to strengthen them,		

which were seen as a key tool to achieve better environmental performance of packaging. ^[1] European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209		
(5). In line with the Green Deal^[1], the new Circular Economy Action Plan (CEAP)^[2] 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 Union-wide labelling that facilitates the correct separation of packaging waste at source. ^[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN ^[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter		

(6). Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately five-times better than incineration with energy recovery^[1]. Just as the European Strategy for Plastics^[2] states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of own resources contribute to reducing pollution from plastic packaging waste^[3]. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource is part of incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy.

^[1] 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.

^[2] 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.



^[3] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM(OJ L 424, 15.12.2020, p. 1).		
(7). The Council underlined in its Conclusions of December 2020^[1], that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions to facilitate 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 materials, especially concerning food packaging materials, and to provide for labelling packaging in an easily understandable way to inform consumers about its recyclability and where its waste should be discarded to facilitate sorting and recycling. ^[1] https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf		
(8). The European Parliament's Resolution of 10 February 2021 on the New Circular Economy Action Plan^[1] reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a		

legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use. ¹¹ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html		
(12). In line with the waste hierarchy set out in Article 4(2) of Directive 2008/98/EC, and in line with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for 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 packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, 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 higher recycling rates for all packaging and high quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.		

(13). Packaging should be designed, manufactured and commercialised in such a way as to allow for 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.		
(32). It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies. Regarding plastic packaging except where made from polyethylene terephthalate (PET), it will be warranted, sufficiently ahead of the date of application of the related recycled content requirements, to re-assess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on this assessment, there might be need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to		

adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.		
<i>Articles</i>		
<i>Article 1 Subject matter</i>		
1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market, as well as for the extended producer responsibility, collection, and treatment, including ~~and~~ recycling of packaging waste.		
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, distortion and restriction of competition within the		

Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental protection.		
3. This Regulation contributes to the transition to a circular economy, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.		
<i>Article 2 Scope</i>		
1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.		

2. This Regulation applies without prejudice to Union regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the hygiene of the packed products, or to transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.		
<i>Article 4 Free movement</i>		
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 making available on the market for the first time within the territory of a Member State of packaging that		

complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 ~~0~~ of this Regulation.		
~~3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.~~		
4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the ~~placing~~ making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements.		

5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system ~~other than those referred to in Article 44(1)~~.		
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it has been brought into conformity.		

PUBLIC

ANNEX II – PART 3 OF THE TEXT REV01. CLUSTER 6, 8 - 11.

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 6 and from 8 to 11 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

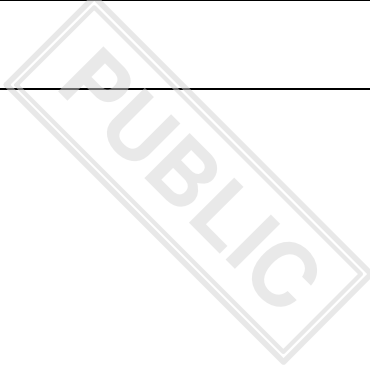
Cluster 6 Management of packaging waste		
<i>Recitals corresponding Cluster 6</i>		
(84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and 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.		
(85) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As		

products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.		
(86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.		
(87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment		

of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.		
(88) As collection and management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the mMeasures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive 2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>		
(89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.		

(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10		The deadlines for reducing per capita packaging waste generation appear to be too short to achieve the indicated targets. Therefore, in Poland's view, it is reasonable to extend these deadlines by 5 years.

% from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		

(93) 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 of the European Parliament and of the Council^[4], makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark.~~ <u>To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. The Regulation seeks to clearly define one producer per packaging unit, be it for empty packaging or for packaging containing products. As a general rule, the producer should be the economic operator located in the Member State where the packaging is made available for the first time. The exception is when packaging is made available by means of distance contracts directly to the end-user when the producer is established outside the EU. The definition of producer takes into account, which economic operator is best</u>		

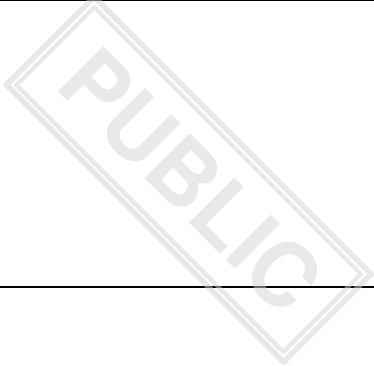
<u>placed to comply with the producer-related obligations, but also seeks to minimize unnecessary administrative burden for small businesses filling service packaging at the point of sale.</u> [1] Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, 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).		
(94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State, it is necessary that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.		

(95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.		
(96) In line with the polluter-pays principle expressed in Article 191(2) of the Treaty, it is essential that the producers placing on the Union market packaging and packaged products take responsibility for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and		

in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. <u>For example, in order to facilitate the separate collection of packaging waste, the producers shall finance the labelling of waste receptacles. This is in line with the producer pay principle and the general minimum requirements for EPR schemes established in Directive 2008/98/EC.</u>		
(96a) As regards extended producer responsibility (EPR) obligations, this Regulation is a <i>lex specialis</i> in relation to Directive 2008/98/EC, which means that where this Regulation <u>has sets out EPR-related provisions,</u> these should prevail over any conflicting provisions in that Directive. This concerns, for example, requirements on <u>producer</u> registration, <u>fee eco-modulation of EPR fees</u> and reporting. <u>However, all Where this Regulation does not provide for a full harmonisation as regards other</u> measures related to EPR or additional rules on non-		

<u>harmonised topics in relation to EPR, Member States should be able to provide for additional measures, provided such measures are in accordance with Directive 2008/98/EC and consistent both with the national laws transposing that Directive and with this Regulation, should be regulated in accordance with the provisions of Directive 2008/98/EC and national rules transposing that Directive, without and do not creating barriers to the internal market. Furthermore, this Regulation does not regulate arrangements of the systems of collection of packaging waste, as this is an example of a matter that is set by national law transposing Directive 2008/98/EC. The same rule applies as regards separate collection of packaging waste and the labelling of waste receptacles. However, this Regulation does not regulate which operator is responsible for the collection of packaging waste and other national contractual arrangements for packaging waste collection.</u>		
<u>(96b) In addition to the harmonized requirement on recyclability for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6), Member States should be allowed to use</u>		

<u>other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.</u>		
(97) Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. ~~Moreover, when establishing measures ensuring that arrangements are to be concluded with distributors, public authorities or third~~		

~~parties carrying out waste management, Member States should allow for preliminary, or similar, agreements, and require that binding agreements are concluded only within a reasonable timeframe after the authorisation.~~		
(98) This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council^[1] lays down rules on the traceability of traders, which more specifically contain obligations for are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to be a trader as defined in Regulation (EU) 2022/2065. In order to prevent free-riding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should		

fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In that context, providers of online platforms, falling within the scope of Section 4 of Chapter III 3 of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, in line with Regulation (EU) 2022/2065, from those producers, information about their compliance with the extended producer responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in Regulation (EU) 2022/2065. [1] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).		
(99) Member States should provide for the measures for the extended producer responsibility under this Regulation <u>and may also provide further requirements for extended producer</u>		

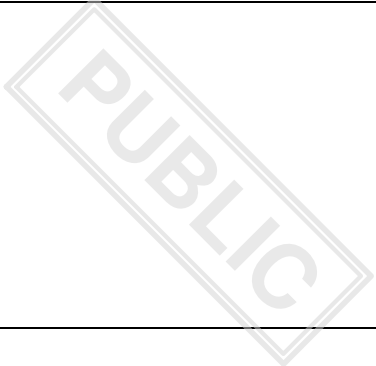
<u>responsibility</u> in accordance with the provisions of Directive 2008/98/EC and of this Regulation.		
(100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.		
(101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of minimum percentage set for recycled content in plastic packaging.		

(102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high collection rates of metal beverages containers, it is appropriate that Member States establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.		
(103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging 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. In such situations, a Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Regulation.		
(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products, spirit drinks and milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the European Parliament and of the Council^[1]. Member States may establish deposit and return systems covering also other packaging. 1. ^[1] 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,	(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine products, aromatised wine products, similar products to wine products and aromatised wine products obtained from fruit other than grapes, and beverages falling within CN code 2206 00 obtained from grapes or grape musts, spirit drinks, alcoholic beverages packaged in ‘sparkling wine’ type glass bottles as defined in Article 57 or regulation (UE) 2019/33, milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the European Parliament and of the Council. Member States may establish deposit and return systems covering also other packaging.	According to the draft PPWR, wine made from grapes and aromatised wine made from grapes have been distinguished due to the nature of the product, differences in production and distribution. In Poland, due to the issue of availability of raw materials, wine products are produced mainly from fruit other than grapes (fruit wines and aromatised fruit wines) and from concentrated grape juice (i.e. wines from grape juice and aromatised wines from grape juice, which, according to the nomenclature used in the regulations, are not grape "wine" or "aromatised wine"). These products are analogous to grape wine and aromatised grape wine, produced according to the same technology, but differ in the raw material fermented. Their characteristics in terms of packaging issues are the same as those of grape wines. The packaging of these products does not differ. The exclusion of only wine spirits and aromatised wine spirits, and the

(EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).		inclusion of fruit wines, aromatised fruit wines and wines made from grape juice and aromatised wines made from grape juice is, in our opinion, unjustified. We expect that this may be due to the fact that in most EU countries only wine spirits are produced, resulting in ignorance of other wine raw materials . The production of wines from fruit other than grapes is specific to only a few countries, mainly Poland, where, according to the Central Statistical Office (GUS), it reaches 105 million litres a year. The production of wine from grape juice, on the other hand, is only allowed by derogation in Poland and Ireland, and is not possible in other countries. According to the Central Statistical Office (GUS), approximately 21 million litres of wine made from grape juice are produced in Poland annually. In comparison, only approx. 1.8 million litres of wine made from grapes are produced in Poland (KOWR data 2021/2022). We would therefore like to ask for a position to be presented during the work on the regulation which will take into account the specific nature of domestic wine production resulting from the availability of raw materials in Poland.

(105) All deposit and return systems <u>established after 1 January 2028</u> should comply with the <u>general</u> minimum ~~general~~ requirements laid down in this Regulation. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.		
(106) Member States and all 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. <u>The Commission, in consultation with Member States, should develop guidelines, including best-practices, for system inter-operability in regions with high transboundary business.</u>		

(107) Member States which achieve 90 % collection rate of the targeted packaging types without a deposit and return system two consecutive calendar years preceding the entry into force of this obligation, may request not to establish a deposit and return system.		
(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation and managing systems for different packaging formats, Member States are allowed to have a different system operator for the re-use system and another operator for the system for single-use</u>	(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation and managing systems for different packaging</u>	The requirement to establish or mandate only one deposit and return system operator, as put forward in the Proposal, is fraught with the risk of negative consequences, such as lack of diversity and monopolisation in the packaging waste sector, reduced innovation, increased costs Lack of the competition may lead to the inadequate satisfaction of consumer needs and restrictions on availability and choice for the public. Similarly, we point out that recital 97 to the Proposal defines the legal and economic framework covering the authorisation of producer responsibility organisations. In this respect, the EU legislator rightly allows multiple organisations to operate on the market. This is justified by the fact that healthy competition between producer responsibility organisations can lead to greater benefits for consumers than if there were only one such entity on the

<u>plastic beverage bottles and single use metal beverage containers. However, only one operator per system should be allowed.</u>	<u>formats, Member States are allowed to have a different more than one system operators for the re-use system and another operator for the system for single-use plastic beverage bottles and single use metal beverage containers. However, only one operator per system should be allowed. Therefore, multiple operators will be able to operate on these systems</u>	market, thus having a monopoly in this area.
(109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council^[1] setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be retained. 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, it should not be possible to postpone the deadlines for attaining the 2030 recycling targets. ^[1] 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).		

(110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more ~~recyclable packaging, coupled with greater granularity of data on the packaging~~ and packaging waste recycling flows, should be reported to the Commission. That will enable the Commission to review the targets with the possibility of maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 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 than the current targets.		

(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation, to be corrected with average loss rates occurring before the waste enters the recycling operations. Losses of materials which occur before the waste enters the recycling operation, for instance due to sorting or other preliminary operations, should not be included in the waste amounts reported as recycled. Those losses can be established on the basis of electronic registries, technical specifications, detailed rules on the calculation of average loss rates for various waste streams or other equivalent measures. Member States should report on such measures in the quality check reports accompanying the data which they report to the Commission on waste recycling. The average loss rates should preferably be		

established at the level of individual sorting facilities and should be linked to the different main types of waste, different sources (such as household or commercial), different collection schemes and different types of sorting processes. Average loss rates should only be used in cases where no other reliable data are available, in particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.		
(112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to		

the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.	PUBLIC	
(113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		

(114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004^[1] laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC. ^[1] Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).		
(115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council^[1] applies. ^[1] 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).		

(116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by taking into account maximum 5 percentage points of the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.		
(117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. <u>They should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. Only packaging listed in this</u>		

<u>Regulation and marked as home-compostable is suitable for home composting. No packaging is suitable for biodegradation in nature.</u> The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies. The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.		
<u>(117a) For labelling of biobased plastic content, t</u>~~The~~ Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics^[1] (COM 2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, <u>fully or partly</u>, ~~made from biomass~~ <u>biobased feedstock</u> . The biomass currently		

originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by-products, such as used cooking oil, bagasse and tall oil. <u>Plastics can be fully or partially made from biobased feedstock.</u> Biobased plastics can be both biodegradable and non-biodegradable. ¹¹¹ https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en		
(118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. Providing of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return systems to be		

set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.		
(119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type, amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.		Poland highlights the introduction of a very detailed division of plastics. At the stage of the producer of packaging, reporting on this should not be a problem, as it is possible to identify them. On the other hand, reporting on processed plastic waste by type seems impossible.
(120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.		

(121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission **so that the latter ~~to~~ can** establish rules for calculation and verification of data on attainment of the recycling targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896^[1] and 2005/270/EC^[2].

^[2] Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).



(122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation, the Member States should establish packaging databases and ensure that they are well-functioning		
<i><u>Corresponding definitions in Article 3</u></i>		
(1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, <u>also referred to as ‘service packaging’</u> .		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u>		

(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;

(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;

(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;

(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.

PUBLIC

(15) authorised appointed representative for the extended producer responsibility’ 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 VII of this Regulation;		
(50) ‘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;		

(51) ‘deposit and return system’ means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;		
(52) ‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a product, process or service;		
(53) ‘harmonised standard’ means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;		
(55) ‘producer responsibility organisation’ means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;		

(56) ‘life-cycle’ means the consecutive and interlinked stages that packaging goes through, ~~including the packaging waste management stage~~ , from raw material acquisition or generation from natural resources to ~~final disposal of the packaging waste management~~ .		
(59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;		
(60) ‘ waste’ means waste as defined in Article 3 point (1) of Directive 2008/98/EC, with the exception of reusable packaging conveyed to reconditioning;		
<i>Article 35</i> <i>Competent authority</i>		It seems reasonable to set a period of at least 12 months for Member States to comply with the obligations set out in in article 35.

1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations set out in this Chapter and in Article <u>6(9)</u>, 26(1) to (10), Article 27, Article 28 and Article 29.		
2. Member States shall lay down the details of the organisation and operation of the competent authority or competent authorities, including administrative and procedural rules governing: (a) the registration of producers in accordance with Article 39; (b) the organisation and monitoring of reporting requirements under Article 39(7); (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40; (d) the making available of information in accordance with Article 50.		

3. By [OP: Please insert the date = ~~63~~ 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.	By [OP: Please insert the date = 12 ~~63~~ 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.	Change resulting from the introduction of the transitional period in article 35.
<i>Article 36</i> <i>Early warning report</i>		
1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.		

2. The reports referred to in paragraph 1 shall include the following: (a) an estimation of the attainment of the targets by each Member State; (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned; (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.		
<i>Article 37 Waste management plans and waste prevention programmes</i>		
1. Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 43, 44 and 38 and, 4546 of this Regulation.		

1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 38 and 45 of this Regulation.		
<i>Article 39 Register of producers</i>		In Poland's view, it is necessary to study the possibility of an exemption from the obligation to obtain registration for economic operators making small amounts of packaging available on several Member State markets. This applies, for example, to craftsmen, artisans.
1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter. The register shall provide links to other national registers of producers' websites to facilitate, in all Member States,		

registration of producers or ~~appointed~~ authorised representatives for the extended producer responsibility.		
2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall, to that end, submit an application for registration in each Member State where they make packaging available on the market for the first time. Where a producer has appointed a producer responsibility organisation as referred to in Article 41(1), the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.		
3. The obligations set out in this Article may, on ~~the producer's behalf,~~ behalf of producers by written mandate , be met by an ~~appointed~~ authorised representative for the extended producer responsibility.		

4. Producers shall not make available packaging on the market, if they or, where applicable, their ~~appointed~~ authorised representatives for the extended producer responsibility, are not registered in such Member State.		
5. The application for registration shall include the information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents if it is necessary for an efficient use of the register.		
6. Where an ~~appointed~~ authorised representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the		

contact details of each one of the represented producers separately.		
7. The producer or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the register, <u>at the latest by 1 June 30 April</u> ~~1 March~~ for each full preceding calendar year, the information set out in Part B of Annex IX.		
7a. Producers, <u>or where applicable, the producer's authorised representative, who are exempted from the obligation in paragraph 7 if they</u> fall under the definition of micro-enterprise in accordance with the Commission Recommendation 2003/361/EC as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation] <u>shall report to the competent authority responsible for the register, by 30</u>		

<u>April, for each full preceding calendar year, the information set out in Part C of Annex IX .</u>		
8. The competent authority responsible for the register: (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website; (b) shall grant registrations and provide a registration number within a maximum period of ~~twelve weeks~~ <u>1-month twelve weeks</u> from the moment that all the information laid down in paragraphs 5 and 6 is provided; (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6; (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2; (e) shall receive and monitor the reporting referred to in paragraph 7.		

9. The producer, or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation of the making available on the market within the territory of the Member State of the packaging referred to in the registration. A producer shall be excluded from the register if the producer has ceased to exist as a producer.		
10. Member States shall ensure that the list of registered producers shall be publicly available <u>free of charge</u>. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. <u>The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use.</u> ~~Where the information in the register of producers is~~		

not publicly accessible, Member States shall ensure that providers of online platforms allowing consumers to conclude distance contracts with producers are granted access, free of charge, to the information in the register.		
11. The Commission shall, <u>by no later than three years after the entry into force of this Regulation</u> ~~<i>{OP: please insert the date X after the date of entry into force of this Regulation}</i>~~, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the packaging types and material categories to be covered by the reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		It seems reasonable to set a period a maximum of 12 months.
<i>Article 40 Extended Producer Responsibility</i>		

1. Producers of packaging shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging that they make available on the market for the first time within the territory of a Member State.		
<u>1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the collection of packaging waste as referred to in Article 12.</u>		
2. A producer shall appoint, by written mandate, an ~~appointed~~ authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time.		

3. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, Providers of online platforms, falling within the scope of Section 4 of Chapter 3 III of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers shall obtain the following information from producers offering packaging to consumers located in the Union: (a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located and the registration number(s) of the producer in that register; (b) a self-certification by the producer committing to only offer packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this article are complied with in the Member State where the consumer is located.		
<u>3a The provider of the online platform allowing consumers to conclude distance contracts with traders shall verify</u>		In Poland's view, verification of the fulfilment of the EPR requirements should take place before the consumer makes a purchase. Thus, the provider

<u>the information in paragraph 3 point (a) with the publicly available registration list referred to in Article 39(10), and where the provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 3 obtained from the trader concerned is inaccurate, incomplete or not up-to-date, the provider shall request the trader to remedy that situation without delay or within the period set by national law. Where the trader fails to correct or complete that information, the provider of the online platform shall swiftly suspend the provision of its service to that trader until the request has been fully complied with.</u>		of the online platform should only allow entities verified by it to provide services via the platform. Nonetheless, a transitional period should be introduced which, on the one hand, will allow the provider of the online platform adequate time to verify the entities that are currently providing such services, and, on the other hand, to enable providers of such services who have not yet complied with the EPR obligation to comply with the requirements in this respect.
<i>Article 41 Producer Responsibility Organisation</i>		
1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf.		

Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.		
2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, the Member State shall ensure that the producer responsibility organisations <u>and producers that have not entrusted a producer responsibility organisation</u> , when taken together, cover the whole territory of the Member State as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.		
3. Producer responsibility organisations shall ensure the confidentiality of the data in its possession as regards proprietary information or information directly attributable		

to individual producers or their ~~appointed~~ authorised representatives.		
4. In addition to the information referred to in Article 8a(3), point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every year ~~and subject to commercial and industrial confidentiality~~ , information on the amount of packaging made available on the market for the first time in the territory of a Member State and on the levels of recovered and recycled materials in relation to the amount of packaging for which they have been performing producer responsibility obligations.		
<i>Article 42 Authorisation on fulfilment of extended producer responsibility</i>		
1. A producer, in the case of individual fulfilment of extended producer responsibility obligations, or the appointed		It seems appropriate to establish a simplified method of producer authorisation, in the case of individual

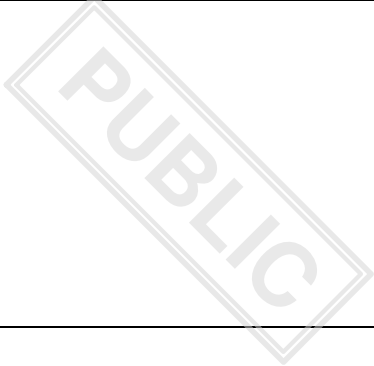
producer responsibility organisations in the case of collective fulfilment of extended producer responsibility obligations, shall apply for an authorisation from the competent authority.		fulfilment of extended producer obligations.
2. The Member State shall in its measures laying down administrative and procedural rules referred to in Article 35, establish the requirements and details of the authorisation procedure, which can be different for either individual or collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the information to be provided by producers or producers 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~~ may be done by a competent authority or an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility		It is necessary to establish an adaptation period for the authorisation procedure and, in particular, to establish the requirements for this process. The minimum adjustment period should be 24 months. Furthermore, in Poland's view, it should be clearly regulated and identify the applicant as the entity commissioning the verification of the application by an independent entity.

organisations or the producers authorised for individual fulfilment.		
3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that: (a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with; (b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the return or collection in accordance with Article 43(1) and (2) and Article 44, free of charge for end users, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types 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, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf;		

(d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling; (e) the requirement laid down in paragraph 6 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.		The notification to the competent authority should take place within a certain period, e.g. 30 days.
5. The competent authority may decide to revoke the relevant authorisation in particular if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or in relation to the notification of any changes that		

concern the terms of the authorisation, or has ceased operations.		
6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case of non-compliance with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. That guarantee may take the form of a recycling insurance or a blocked bank account or participation by the ~~producer~~ producer in the producer responsibility organisation. Member States may specify additional requirements on this guarantee.		

<u>Annex IX</u> <u>INFORMATION FOR REGISTRATION AND REPORTING TO THE REGISTER REFERRED TO IN ARTICLE 39</u>		
A. Information to be submitted upon registration		
1. The information to be submitted by the producer or its authorised representative for EPR shall include: (a) name and brand names (if available) under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, indicating a single contact point; (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number;		

(c) quantities by weight of types of packaging as set out in Table 1 of Annex II, that the producer makes available in the Member State for the first time; (d) a declaration on how the producer meets its responsibilities under Article 40.		
2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and e-mail address and the national identification code of the producer responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.		

3. In the case of an authorisation in accordance with Article 41(1), the producer responsibility organisation shall, in addition to the information required under point 1 of Part A of this Annex, provide: (a) the names and contact details, including postal codes and places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented; (b) the mandate of each represented producer, where applicable; (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the represented producers meets the responsibilities set out in Article 40.		
B. Information to be submitted for reporting		
(a) national identification code of the producer; (b) reporting period;		

(c) quantities by weight of packaging types as set out in Table 1 in Annex II that the producer makes available in the Member State for the first time; (d) quantities, by weight, per material of packaging waste separately collected within the Member State as set out in Table 1 in Annex II; (e) quantities, by weight, per material and type of packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII; (f) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII; (g) arrangements to ensure the producer responsibility regarding the waste from packaging placed on the market.		
<u>C. Information to be submitted for reporting for micro-enterprises</u>		
<u>a. national identification code of the producer;</u>		

<u>b. reporting period;</u>				PUBLIC	
<u>c. information on packaging types set out in Table 1.</u>					
<u>d. arrangements to ensure the producer responsibility regarding packaging placed on the market</u>					
Table 1					
	Quantities by weight made available in member state	Quantities by weight collected	Quantities by weight recycled		
Glass					
Plastic					
Paper/cardboard (including composite)					
Ferrous metal					
Aluminium					
Wood					
Other					

Total					
Deposit return systems and waste collection					
<i>Article 43 Return and collection systems</i>					It seems that no specific measure was foreseen to guarantee that high-quality recycled materials suitable for food-grade applications are used in priority in food- grade applications. Without such measure, high-quality materials (complying with strict EU/EFSA food safety requirements) could instead be downcycled and used in non-food applications which do not require the same level of quality (i.e food-grade). Moreover, without the necessary support on feedstock access, the recycled content targets set in article 7 will be extremely challenging to achieve for the entire obliged industry, including SMEs.
1. <u>By 2030,</u> Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year,</u> in order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its					

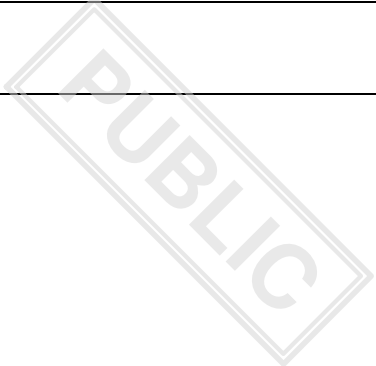
preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>		
2. Member States may allow derogations from paragraph 1 provided that collecting packaging or fractions of packaging waste together or together with other waste does not affect the potential of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.		

3. The systems referred to in paragraph 1 shall: (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf; (b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities, and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas; (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		

4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.		
~~5. By way of derogation from the separate waste collection obligation in paragraph 3, certain types of packaging waste may be collected together where such collection does not affect their potential to undergo recycling operations and results in output from those operations which is of comparable quality to that achieved through separate collection.~~		
<i>Article 44 Deposit and return systems</i>		
1. By 1 January 2029, Member States shall take the necessary measures to ensure ~~that deposit and return systems are set up for the~~ separate collection of at least 90% per year by		Poland believes that Member States should have flexibility in this regard. Additional clarification is needed, as the PPWR defines single use plastic beverage bottles as means beverage bottles listed in Part F of the Annex to

weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year (a) single use plastic beverage bottles with the <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres; and (b) single use metal beverage containers with a <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres.		Directive (EU) 2019/904. In contrast, the SUP Directive does not specify a minimum capacity for plastic beverage bottles but only a maximum capacity.
2. In order to achieve the targets referred to in paragraph 1, Member States shall <u>take the necessary measures to ensure that establish</u> deposit return systems <u>are set up</u> for the relevant packaging formats referred to in paragraph 1. Such obligation ~~The obligation laid down in paragraph 1~~ does not apply to packaging for: (a) wine, aromatised wine products, and spirit drinks; (b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.	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. Such obligation does not apply to packaging for: (a) wine products, aromatised wine products, similar products to wine products and aromatised wine products obtained from fruit other than grapes, and beverages falling within CN code 2206 00 obtained from grapes or grape musts wines; (b) spirit drinks; (c) products packaged in ‘sparkling wine’ type glass bottles as defined in Article 57 or regulation (UE) 2019/33;	According to the draft PPWR, wine made from grapes and aromatised wine made from grapes have been distinguished due to the nature of the product, differences in production and distribution. In Poland, due to the issue of availability of raw materials, wine products are produced mainly from fruit other than grapes (fruit wines and aromatised fruit wines) and from concentrated grape juice (i.e. wines from grape juice and aromatised wines from grape juice, which, according to the nomenclature used in the regulations, are not grape "wine" or "aromatised wine"). These products are analogous to grape wine and aromatised grape wine, produced according to the same technology, but differ in the raw material fermented. Their characteristics in terms of packaging issues are the same as those of grape wines. The packaging of these products does not differ.

	(d) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.	The exclusion of only wine spirits and aromatised wine spirits, and the inclusion of fruit wines, aromatised fruit wines and wines made from grape juice and aromatised wines made from grape juice is, in our opinion, unjustified. We expect that this may be due to the fact that in most EU countries only wine spirits are produced, resulting in ignorance of other wine raw materials . The production of wines from fruit other than grapes is specific to only a few countries, mainly Poland, where, according to the Central Statistical Office (GUS), it reaches 105 million litres a year. The production of wine from grape juice, on the other hand, is only allowed by derogation in Poland and Ireland, and is not possible in other countries. According to the Central Statistical Office (GUS), approximately 21 million litres of wine made from grape juice are produced in Poland annually. In comparison, only approx. 1.8 million litres of wine made from grapes are produced in Poland (KOWR data 2021/2022). We would therefore like to ask for a position to be presented during the work on the regulation which will take into account the specific nature of domestic wine production resulting from the availability of raw materials in Poland.

3. ~~Without prejudice to paragraph 1 of this Article, a Member States~~ will ~~may~~ be exempted from the obligation under paragraph 12 under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as reported to the Commission under Article 50(1) point (c) is above 90 % by weight of such packaging ~~placed~~ made available on the market for the first time on the territory of that Member State in the calendar years 2026 and 2027. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of		

the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.		
2. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point (be) of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the		

Commission notified the Member State concerned that the exemption no longer applies.		
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, 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.		
7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article <u>and the possibility to include packaging for other products.</u>		Poland supports the amendment, which will provide Member States with flexibility on the types of packaging that can be covered by the DRS system.

8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are not less convenient for end users than opportunities to return single-use packaging to a deposit and return system.		
9. By 1 January 2028, Member States shall ensure that all deposit and return systems, including those established under paragraph 5 <u>6</u> , meet the minimum criteria listed in Annex X.		
<u>9a. 48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, on deposit and return systems inter-operability, including examples of best-practices, for regions with high transboundary business.</u>		In Poland's view, the time for the guidelines publication should be shortened.
<u>ANNEX X</u>		It is important to differentiate between mandatory criteria all DRS must have (existing and new ones) and those

<u>MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS</u>		which are nice to have but don't always make sense if the system has not been set up that way from the onset. For existing DRS, making some of those changes could be costly or disruptive to the systems while not bringing a positive impact on the collection rates
For the purpose of this Annex, the following definition shall apply: 'system operator' means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit and return system in a Member State.		
Minimum general requirements for deposit and return systems Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:		
(a) a single system operator is established or licenced. When deposit and return systems are established for specific packaging	(a) at least single system operator is established or licenced. ~~When deposit and return systems are established for specific packaging formats for reuse or single use, Member States may~~	Poland cannot agree to regulations in which only one DRS system operator will be allowed. In Poland, legislative work on the introduction of DRS system is at a very advanced stage (technical notification). The proposal has been agreed with all stakeholders and is widely accepted.

formats for reuse or single use, Member States may establish ~~more than one single~~ <u>a different</u> system operator <u>per system</u> ;	~~establish more than one single a different system operator per system;~~	Multiple operators will be allowed in our DRS system and the system itself is planned to be operational by 2025.
(b) the governance of the system allows for equal access and fair conditions of all economic operators wishing to become part of the system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;		
(c) control procedures and reporting systems are set up allowing the system operator to obtain data on the collection of packaging covered by the deposit and return system;		
(d) a minimum deposit level is established, which is sufficient to achieve the required collection rates; <u>(da) a minimum deposit to be charged at the point of sale,</u>		
(e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;		
(f) system operator is a non-profit and independent legal entity		

(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;		
(h) system operators coordinates the functioning of the deposit and return system;		
(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system; (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates;		
(j) a sufficient amount ~~at least 1%~~ of the ~~annual~~ turnover of the system operator (excluding deposits) are used for public awareness campaigns on the information on management of packaging waste;		
(k) system operators must provide any information requested by the competent authorities of a Member State, in which the system		

operates, for the purposes of monitoring compliance with the requirements in this Annex;		
(l) Member States shall ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with redeemed deposits. ~~When implementing this obligation, Member States shall take into account at least the following factors:~~ ~~(i) sales surface area allowing end users to return deposit bearing packaging in their according to the local conditions;~~ ~~(ii) buying and selling habits and traditions;~~ ~~(iii) food safety;~~ ~~(iv) health and safety;~~ ~~(v) public health;~~		
~~(m) deposit is exempted from sales taxes;~~		
(n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;		

(o) all deposit bearing packaging is clearly labelled, so that the end users can easily identify the need to return such packaging;		
(p) fees are transparent;		
~~(q) all packaging covered by the deposit and return system.~~		
(r) In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.		
~~Member States with regions with high transboundary business shall ensure that the functioning of the DRS allows for the interoperability of DRS and that the implementation of the minimum requirements and of any additional requirements does not result in discrimination of business and consumers and market distortions.~~		
Member States are allowed to create exemptions from charging a deposit for a deposit bearing packaging in the context of consumption in hospitality premises provided that a deposit		

bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.		
<i>Article 46 Recycling targets and promotion of recycling</i>		
1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory: (a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated; (b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 50 % of plastic; (ii) 25 % of wood; (iii) 70 % of ferrous metals; (iv) 50 % of aluminium; (v) 70 % of glass; (vi) 75 % of paper and cardboard;		

(c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated; (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 55 % of plastic; (ii) 30 % of wood; (iii) 80 % of ferrous metals; (iv) 60 % of aluminium; (v) 75 % of glass; (vi) 85 % of paper and cardboard.		
2. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following conditions: (a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets, (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %,	3. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following conditions: (e) the derogation from the targets in the period of postponement is limited to a maximum of 15	In paragraph 2(d), it seems reasonable to reduce the period for notification to the Commission to 12 months. Particularly since, in order for the 24 months indicated to be applicable by the Member States, this regulation must enter into force this year.

(c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and (d) at the latest 24 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).	percentage points from a single target or divided between two targets, (f) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %, (g) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and at the latest 24 12 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3),	

	point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).	
4. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
5. By [OP: Please insert the date = 8 years after the date of entry into force of this Regulation], the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further targets. To that end, the Commission shall submit a report to the European Parliament and to the Council,		

accompanied, if the Commission finds it appropriate, by a legislative proposal.		
6. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by: (a) improving market conditions for such materials; (b) reviewing existing rules preventing the use of such materials.		
7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum ~~targets~~<u>requirements</u> set out in this Article.		

<i>Article 47 Rules on the calculation of the attainment of the recycling targets</i>		
1. The calculation whether the targets laid down in Article 46(1) have been attained shall be carried out in accordance with the rules laid down in this Article.		
2. Member States shall calculate the weight of packaging waste generated in a given calendar year. The calculation of packaging waste generated in a Member State must be exhaustive.		
3. Member States shall calculate the weight of packaging waste recycled in a given calendar year. The weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations		

to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.		
4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.		
5. ~~Packaging waste exported out of the Union shall be calculated as recycled 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.		
6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first sub-paragraph of this ~~Article~~paragraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that: (a) such output waste is subsequently recycled; (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.		
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that		

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

9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as recycled.		
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.		

11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted as recycled by the Member State in which that packaging waste was collected.		
12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are broadly equivalent to the requirements of the relevant Union environmental law.		
<i>Article 48 Rules on the calculation of the attainment of the recycling targets by including re-use</i>		

1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging. The adjusted level shall be calculated by subtracting: (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in the first subparagraph in all sales packaging placed on the market, and (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market. No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.		

2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point (a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).		
<u>ANNEX XI</u> <u>IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO</u> <u>POINT (D) OF ARTICLE 46(2)</u>		
The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:		
(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;		

(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;		
(c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;		
(d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;		
(e) a timetable for the implementation of the measures identified in point 4(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;		

(f) information on funding for waste management in line with the polluter-pays principle;		
(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.		
<i>Article 50 Reporting to the Commission</i>		
1. Member States shall report to the Commission for each calendar year the following data: (a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging, (b) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category <u>as listed in table 5 of Annex XII</u>; (c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1), Member States may provide data on the annual consumption of very thick plastic carrier bags per person	2. Member States shall report to the Commission for each calendar year the following data: (d) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging, (e) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and ~~thick plastic carrier bags~~ per person, separately for each category <u>as listed in table 5 of Annex XII</u>;	The provision of data on the basis of paragraph 1(b) for thick plastic carrier bags appears to be unjustified, while the regulation does not impose any obligation in this respect.

	(f) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1), Member States may provide data on the annual consumption of very thick plastic carrier bags per person	
3. Member States shall report for ~~each packaging material and type as listed in Table 1 of Annex IX~~ for each calendar year data on: (a) the amounts of packaging made available ~~placed~~ on the market for the first time on the territory of that Member State for each packaging ~~type~~ category and material as listed in Table 1 of Annex ~~IX~~; (b) amounts of separately collected packaging waste for each packaging material as listed in Table ~~13~~ in the Annex ~~XII~~; (c) the recycling rates of packaging waste as listed in Table 4 of Annex XII; (d) installed capacities for sorting and recycling for each packaging type and material as listed in Table 1 of Annex II.		It is necessary to clarify whether the installed capacity refers to the capacity of the installations that have treated the waste for those subject to extended producer responsibility or the total number of installations for each type of packaging in the Member State. Possible difficulties in indicating the capacity of the installations treating plastics by type, as the list of waste does not make such a distinction, while the capacity of the installations refers to specific waste codes in the list of waste.

4. The first reporting period shall concern: (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, 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 1, point c, the calendar year starting from 1 January 2028.		
5. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in accordance with paragraph 7.		
6. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the		

format established by the Commission in accordance with paragraph 7.		
7. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article 47(~~58~~) and (~~812~~), including detailed information about the average loss rates where applicable.		
8. The Commission shall, by [<i>OP: Please insert the date = ~~2412~~ months after the date of entry into force of this Regulation</i>], adopt implementing acts establishing: (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting; (b) the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

9. Member States shall require that all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant, particular problems faced bying small and medium-sized enterprises with regard to the provision of detailed data.		
<i>Article 51 Packaging databases</i>		
1. By [OP: Please insert the date = xx months after the date of entry into force of this Regulation], the Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis, to enable the reporting to the Commission.		

2. The databases referred to in paragraph 1 shall include the following: (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States; ~~(b) information on the toxicity or danger of packaging materials and components used for their manufacture;~~ (c) the data listed in Annex XII.		
<u>ANNEX XII</u> <u>DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE</u> <u>(IN ACCORDANCE WITH TABLES 1 TO 4)</u>		Poland highlights the introduction of a very detailed division of plastics. At the stage of the producer of packaging, reporting on this should not be a problem, as it is possible to identify them. On the other hand, reporting on processed plastic waste by type seems impossible.
1. For sales, grouped and transport packaging: (a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1); (b) quantities reused (Table 2).		

2. For sales, grouped and transport packaging waste: (a) Quantities for separately collected packaging waste per material (Table 3) (b) Quantities recovered and disposed of, recycled and quantities recovered for each packaging type (Table 4). (c) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5) (d) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)							
TABLE 1 Quantity of packaging (sales, grouped and transport) generated within the national territory							
	Tonnage produced	- Tonnage exported	+ Tonnage imported	+ Tonnage stored	= Total		
Glass							

Plastic						PUBLIC	
Paper/cardboard (including composite)							
Ferrous metal							
Aluminium							
Wood							
Other							
Total							
TABLE 2 Quantity of <u>total</u> sales packaging (sales, grouped and transport) reused within the national territory							
	Tonnage of packaging placed made available on the market for the first	Reusable packaging		Reusable sales packaging			
		tonnage	Percentage of total reusable packaging	Tonnage	Percentage of total reusable sales packaging		

	time on the territory of that Member State					PUBLIC	
Glass							
Plastic <u>including composite</u>							
Paper/cardboard (including composite packaging)							
Ferrous metal (including tinplate and composite packaging)							
Aluminium							
Wood							

Other							
total							
TABLE 3 <u>Quantity of generated packaging waste within the national territory and Quantity of separately collected packaging waste per material (sales, grouped and transport) generated within the national territory</u>							
Packaging material	Packaging wWaste	From-Packaging					
	generation (t)	waste separately collected (t)					
Glass							
Plastic (rigid and flexible)							
Paper/cardboard (including composite)							
Metals (Ferrous metal and							

		onal terr itor y								
Within the national territory										
Glass, including composite										
Plas tic, PET	Rigi d									
Plas tic, PP										
Packaging		Tot al ton nag e dis pose d of outs ide nati ona l terr itor y	Tot al ton nag e dis pose d of	Tot al tonn age reco vere d and dis pose d of	Quantity recycled		Quantity recovered			
					Ton nag e	Perc enta ge	Ton nag e	Perc enta ge		



Plas tic, HD PE and PP										PUBLIC	
Plas tic, PS											
Plas tic, HD PE											
Plas tic, PV C											
Plas tic, PC											
Plas tic, EPS											
Plas tic, XP S											
Plas tic, PET	Flex ible										
Packaging		Tot al	Tot al	Tot al	Quantity recycled	Quantity recovered					

		ton nage dis pose d of outs ide nati ona l terr itor y	ton nage dis pose d of	tonnage reco vere d ~~and dis pose d of~~	Ton nage	Perc enta ge	Ton nage	Perc enta ge		PUBLIC	
Plas tic, PP											
Plas tic, PE											
Plas tic, mul ti- laye r											
Paper/card board (non- composite)											
Composite Paper/card board											

Ferrous metal (including tinplate and composite packaging of which the									PUBLIC	
Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered				
				Tonnage	Percentage	Tonnage	Percentage			
majority is steel)										
Aluminium (including composite packaging of which the										

majority is aluminium									PUBLIC				
Wood													
Textile													
Ceramic, porcelain or stoneware													
Other													
Total packaging													
Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered							
				Tonnage	Percentage	Tonnage	Percentage						
waste													
Table 5													

Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick plastic carrier bags per person, consumed within the national territory				
	Plastic carrier bags consumed within the national territory			
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>	Number per person	Tonnes per person		
lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>				
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>				
Table 6				

Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)				
	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)		
Single use plastic beverage bottles with the capacity of up to 3 litres				
Single use metal beverage containers with a capacity of up to 3 litres				
Cluster 8 Remaining obligations of economic operators				
Recitals corresponding cluster 8				
(39) It should be recalled that all ~~compostable packaging constituting a food contact material is~~ packaging in				

contact with food, including compostable packaging, has to meet the requirements set out in <u>under the scope of set out in</u> Regulation (EC) No 1935/2004 on materials and articles intended to <u>be brought come</u> into contact with food <u>or already in contact with food</u>. Where appropriate, the documentation and information required according to the legislation on food contact materials can also be used as part of the information and documentation required in this Regulation.		
(51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.		

(51a) 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 provides common principles and reference provisions for the drawing up of legislation harmonising the conditions for the marketing of products. In order to ensure consistency with other sectoral product legislation and to simplify application and enforcement, this regulation should be aligned to that Decision, unless specific circumstances require a different solution <u>in this Regulation</u>. Therefore, ~~the current Regulation should have recourse to that~~ Decision <u>768/2008/EC should be used</u> as regards certain definitions, general obligations of economic operators, presumption of conformity, ~~provisions regarding~~ formal objections against harmonised standards, ~~and~~ notification procedures, and the provisions concerning procedures dealing with products presenting a risk, <u>when not otherwise specified in this Regulation</u>.		

(52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should therefore remain solely the obligation of the manufacturer.		
(53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market compl~~y~~<u>ies</u> with this Regulation, whether imported as ~~self-standing~~ standalone packaging or ~~in as part of~~ in association with a packaged product. In		

particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		
(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the		

	applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.	
(57)	As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.	
(58)	Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.	

(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.	PUBLIC	
Definitions article 3 corresponding :		
(6) 'making available on the market' means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;		
(7) 'placing on the market' means the first making available of a packaging on the Union market;		

(8) ‘economic operator’ means manufacturers, suppliers of packaging, importers, distributors, authorised representative, final distributors, and fulfilment service providers;		
(9) ‘manufacturer’ means any natural or legal person who manufactures packaging under its own name or trademark, or has packaging designed or manufactured <u>under its own name or trademark</u> ~~and uses that packaging for the containment, protection, handling, delivery or presentation of products under its own name or trademark, without it having been placed on the market previously;~~		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a~~		

<u>professional basis under its own name or trademark;</u> <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>		

(11) ‘supplier’ 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 or presentation of products under its own name or trademark;~~		
(12) ‘importer’ means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;		
(13) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;		

(14) ‘authorised representative’ means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer’s obligations under this Regulation;		
<i>Article 13 Obligations of manufacturers</i>		
1. When placing packaging on the market, manufacturers shall ensure that the packaging complies with the following: (a) it has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; (b) it 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 VII. Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.		
3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10-5~~ years after the <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market.</u>	3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10-5~~ 3 years after the <u>single-use</u> packaging has been placed on the market, <u>and 10 5 years after reusable packaging has been placed on the market.</u>	The 5-year time period proposed by PREZ for keeping DoC could be applied to reusable packaging, while for single-use packaging should not be longer than 3 years, which is justified by the very short lifetime of such packaging. 5-year time period is appropriate for reusable packaging.
4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this		

Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may be affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.		
5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.		

6. Manufacturers shall indicate on the packaging or on a QR code or another data carrier their name, registered trade name or registered trade mark as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code or other type of digital data carrier referred to in Article 11(2) or the data carrier referred to in Article 11(4) or in a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.		
7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market 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.		
9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or~~ electronic form and, on request, in paper form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.		

<i>Article 14 Information obligations of suppliers of packaging or packaging materials</i>		
10. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.		
11. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.		

<i>Article 15 Obligations of authorised representative</i>		
1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 13(1) and the obligation to draw up technical documentation referred to in Annex VII and required under Articles 5 to 10 shall not form part of the authorised representative's mandate.		
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following: (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~10~~ 5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market;</u>		

(b) cooperate with the national authorities, at their request, on any measures taken with regard to non-compliances of the packaging covered by the authorised representative's mandate; (c) further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging in a language or languages, which can be easily understood by that authority; (d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request; (e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.		
<i>Article 16 Obligations of importers</i>		

1. Importers shall only place on the market packaging which is compliant with the requirements of Articles 5 to 11.		
2. Before placing packaging on the market, importers shall ensure the following: (a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer; (b) the packaging is labelled in accordance with Article 11, (c) the packaging is accompanied by the required documents; (d) the manufacturer has complied with the requirements set out in Article 13(5) and (6). Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.		

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

6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.		
7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
8. Importers shall, for ~~10~~ 5 years after <u>the single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market,</u> keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.		

9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided ~~either in paper or in~~ electronic form and, on request, in paper form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority.		
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 17 Obligations of distributors</i>		

1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.		
2. Before making packaging available on the market, distributors shall verify the following: (a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the register of producers referred to in Article 40~~39~~; (b) the packaging is labelled in accordance with Article 11; (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.		
3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer or importer is not complying with those applicable requirements, the distributor shall not make the packaging		

available on the market until it has been brought into conformity or until the manufacturer complies. Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.		
4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken. Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and		

documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~paper or~~ electronic form and, on request, in paper form. Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 18 Obligations of fulfilment service providers</i>		
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.		

<i>Article 19 Case in which obligations of manufacturers apply to importers and distributors</i>		
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 134, where they place packaging on the market under their own name or trademark or modify packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation		
<i>Article 20 Identification of economic operators</i>		
1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following: (a) the identity of any economic operator that has supplied them with packaging; (b) the identity of any economic operator to which they have supplied packaging.		

2. Economic operators shall be able to provide the information referred to in paragraph 1(a) for ~~10~~ 5 years after they have been supplied with the <u>single-use</u> packaging and ~~for~~ 10 years after they have <u>been</u> supplied <u>a reusable</u> packaging. <u>Economic operators shall be able to provide the information referred to in paragraph 1(b) 5 years after they have supplied the single-use packaging and for 10 years after they have supplied the reusable packaging.</u>		
<i>Article 49 Information on prevention and management of packaging waste</i>		
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 41(1), producer responsibility organisations shall make		

available to end-users, in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State: (a) the role of end-users in contributing to waste prevention, including any best practices; (b) re-use arrangements available for packaging; (c) the role of end-users in contributing to the separate collection of packaging waste materials, including handling of packaging containing hazardous products or waste; (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product; (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single-use packaging, in particular plastic carrier bags;		

(f) the composting properties and appropriate waste management options for compostable packaging. <u>Consumers shall be informed that compostable packaging is compostable in industrially controlled conditions and should not be thrown in home compost or nature.</u> Obligations under paragraph 1(d) shall be applicable as of <i>[OP: Please insert the date = 42 months after the entry into force of this Regulation]</i> or the date of application of Article 11, whichever is the latest.		
2. The information referred to in paragraph 1 shall be up to date and provided by means of: (a) a website or other means of electronic communication; (b) public information; (c) education programmes and campaigns; (d) signposting in a language, or languages, which can be easily understood by users and consumers.		

3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		
Cluster 9 Conformity		
Recitals corresponding cluster 9		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market comply <u>ies</u> with this Regulation, whether imported as <u>self standing standalone</u> packaging or ~~in~~ <u>as part of in association</u> <u>with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by		

manufacturers are available for inspection by the competent national authorities.		
(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		

(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		

<i>Article 30 Test, measurement and calculation methods</i>		
For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, ~~and 21~~ and 29 24 of this Regulation, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.		
<i>Article 31 Presumption of conformity</i>		
1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been		

published in the <i>Official Journal of the European Union</i> , shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.		
2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Articles 5 to 11 and 24.		
<i>Article 32 Common ~~technical~~ technical specifications</i>		
1. Packaging which is in conformity with common technical specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 24 to the extent that those		

requirements are covered by those common technical specifications or parts thereof.		
2. The Commission may, by means of implementing acts, establish common technical specifications for the requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled: (a) there is no harmonised standard covering the relevant requirements the reference of which is published in the <i>Official Journal of the European Union</i> or the standard does not satisfy the requirements it aims to cover; and (b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled:		

(i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed; (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the standards requested: • are not adopted within the deadline set in the request; • do not comply with the request; or • are not fully in line with the requirements they aim to cover. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>2a. Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.</u>		
3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the		

Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard <u>are</u> published in the <i>Official Journal of the European Union</i>, the Commission shall assess whether implementing acts referred to in paragraph 2, or parts thereof which cover the same requirements set out in Articles 5 to 11 and Article 24 need to be repealed or amended.		
<u>3a. When a Member State considers that a common specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.</u>		
<i>Article 33 Conformity assessment procedure</i>		

Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.		
<i>Article 34 EU declaration of conformity</i>		
1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.		
2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the		

packaging is placed on the market or made available on the market.		
3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall, where appropriate , be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.		
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.		

<u>ANNEX VII</u> <u>CONFORMITY ASSESSMENT PROCEDURE</u>		
Module A Internal production control		
1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 5 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to 10 of this Regulation that apply to them.		
2. Technical documentation		

The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s). The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the packaging. The technical documentation shall contain, wherever applicable, at least the following elements: (a) a general description of the packaging and of its intended use, (b) conceptual design, and manufacturing drawings and materials schemes of components, etc. (a) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging, (b) a list of: (i) the harmonised standards, referred to in Article 31, applied in full or in part (ii) the common technical specifications, referred to in Article 32, applied in full or in part		

(iii) other relevant technical specifications used for measurement or calculation purposes, (iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied, ~~(iv)~~ in the event of harmonised standards and/or common technical specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1. (c) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and, (d) test reports.		
3. Manufacturing The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.		

4. Declaration of conformity The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the packaging has been placed on the market. The declaration of conformity shall identify the packaging for which it has been drawn up. A copy of the declaration of conformity shall be made available to the relevant authorities upon request.		
5. Authorised representative The manufacturer's obligations set out in point 4 as regards keeping of the technical documentation may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.		

<u>ANNEX VIII</u> <u>EU DECLARATION OF CONFORMITY NO* ...</u>		
1. No.... (unique identification of the packaging):		
2. Name and address of the manufacturer and, where applicable, its authorised representative.		
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.		
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.		

5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).		
6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.		
7. ~~The~~ Where applicable, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).		
8. Additional information Signed for and on behalf of: (place and date of issue):		

(name, function) (signature)		
* (identification number of the declaration)		
Cluster 10 Safeguard procedures		
Recitals corresponding cluster 10		
(83) Regulation (EC) No 765/2008 of the European Parliament and of the Council^[1] 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. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the~~		

~~marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 of the European Parliament and of the Council^[1] setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation. The market surveillance mechanisms laid down by Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the~~		

~~marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(124) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.		
(131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS)		

and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to identify packaging that may correspond to such a prohibition measure. The **electronic** ~~Electronic System~~ Customs Risk Management Control System (CRMS) set out in Article 36 of Commission Regulation (EU) 2447/2015, without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.

PUBLIC

(132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for that interconnection.		
(133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the		

preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical information, including relevant international standards.	PUBLIC	
<i>Article 52 Procedure for dealing with packaging presenting a risk at national level</i>		
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 requirements laid down in this Regulation that are relevant to the risk. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.		

Where, in the course of that evaluation, the market surveillance authorities find that the packaging does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective measures, within a reasonable period prescribed by the market surveillance authorities which is commensurate with the nature and, where relevant the degree of the non-compliance, to bring the packaging in compliance with those requirements.		
2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		

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

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.		
6. The information to the Commission and the other Member States referred to in paragraph 5 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 and, where applicable, the information referred to in Article 55 4—(1). The market surveillance authorities shall also indicate whether the non-compliance is due to either of the following: (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation;		

(b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.		
7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the adopted national measure, of their objections.		
8. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Provisional measures may provide for a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.		

9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.		
<i>Article 53 Union safeguard procedure</i>		
1. Where, on completion of the procedure set out in Article 52(3) (5) and (6) (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 by means of an implementing act whether the national measure is justified or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.		
3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.		

4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.	PUBLIC	
<i>Article 54 Compliant packaging which presents a risk</i>		
1. Where, having carried out an evaluation under Article 52, a Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of risk, to ensure that the packaging concerned, when placed on the market, no longer presents that risk, ~~to withdraw the packaging from the market or to recall it.~~		

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		
4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the		

packaging, the nature of the risk involved and the nature and duration of the national measures taken.		
5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, propose appropriate measures. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3). On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 589(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.		

<i>Article 55 Controls on packaging entering the Union market</i>		
1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article 52(5) (4)—of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the non-compliant packaging to which the measures apply and, in case of packaged product, the product itself. 1a. The authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.		

2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.		
3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article 52(56) to the environment referred to in paragraph 2 3. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 4 5.		
4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the implementation arrangements for paragraph 3 4- including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 4. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).		

<i>Article 56 Formal non-compliance</i>		
1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned: (a) the EU declaration of conformity has not been drawn up (b) the EU declaration of conformity has not been drawn up correctly; (c) the QR code or data carrier referred to in Article 11 do not provide access to the required information in accordance with that Article; (d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors; (e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete; (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled;		

(g) the requirements on restrictions on uses of certain packaging formats and on excessive packaging set out in Articles 21 and 22 are not complied with; (h) in relation to reusable packaging, the requirements on the establishment, operation and participation in a system for re-use referred to in Article 24 are not fulfilled; (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled; (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled; (k) the re-use and refill targets in Article 26 are not achieved.		
2. Where the non-compliance referred to in paragraph 1, points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made available on the market or ensure that it is recalled or withdrawn from the market. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties		

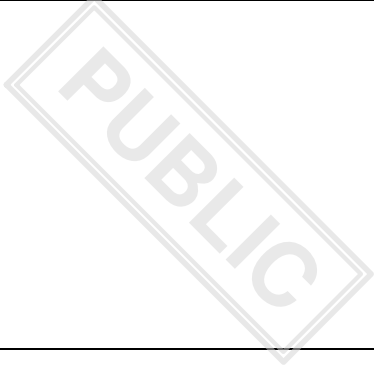
applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.		
Cluster 11 Final Chapters		
Recitals corresponding cluster 11		
(134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ~~the requirements~~ related to the ~~plastic~~ recycled plastic content for plastic beverage bottles as of 1 January 2030 should be deleted from Directive (EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted. <u>~~As this Regulation does not regulate the recycled content in the plastic part in packaging before 1~~</u>		

<u>January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact.</u> Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, <u>unless specifically provided otherwise in this Regulation.</u> <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing</u>		

restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation

PUBLIC

<u>should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<u>(134bis) As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		
(135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability requirements, the economic operators placing non-compliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective,		

proportionate and dissuasive penalties in national law for failure to comply with this Regulation.		
(136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.		
(137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the		

administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.		
(138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC should therefore be repealed.		
(139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this ~~Directive~~ Regulation should be deferred.		

(140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application of the system of own resources of the Union with regard to the own resource based on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.		
(141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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.		
<i>Article 58 Exercise of the delegation</i>		In Poland's view, a better solution would be the wider use of implementing acts instead of delegated acts. Only implementing acts will ensure full involvement of all parties and a good discussion between experts at national level and EC.
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of		

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

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.		
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
6. A delegated act adopted pursuant to Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry		

of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 59 Committee procedure</i>		
1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ~~Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 72, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.~~ <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 55, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.</u>		
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 of that Regulation, shall apply.		

<i>Article 60 Amendments to Regulation (EU) 2019/1020</i>		
Regulation (EU) 2019/1020 is amended as follows: (a) Annex I is amended as follows: (i) point 9 is deleted; (ii) the following points are added: 'X [OP Please insert the next consecutive number] Directive (EU) 2019/904 of the European ~~Parliament~~ Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1); ~~'X [OP Please insert the next consecutive number] Regulation (EU) .../... on packaging and packaging waste, amending Regulation (EU) 2019/1020, and repealing Directive 94/62/EC [for the Publications Office to fill in the OJ publication details].~~ (b) in Annex II, point 8 is deleted.		

<i>Article 61</i> <i>Amendments to Directive (EU) 2019/904</i>		
Directive (EU) 2019/904 is amended as follows: <u>(aa) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’</u> <u>Article 22(4a) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards single use plastic packaging listed in Annex V point 3.</u> <u>[Article 26(2) and (3) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u> <u>[Article 45(4) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u>		

(a) in Article 6(5), points (a) and point (b), is are deleted as of 1 January 2030; (b) in Article 13(1), point (e), is deleted as of 1 January 2030; (c) Article 13(3) is be replaced by ‘3. The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’		
<i>Article 62 Penalties</i>		
1. By [<i>OP: Please insert the date = 24 months after the date of entry into force of this Regulation</i>], 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 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator.~~		
2. Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator. Where the legal system of the Member State does not provide for administrative fines, the first paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have equivalent effect to the administrative fines referred to in that paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.		

3. Member States shall, by [<i>OP: please insert the date = 1 year after the date of entry into force of this Regulation</i>], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 63 Evaluation</i>		
By [<i>OP: Please insert the date = 8 years after the date of application of this Regulation</i>], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of packaging. The Commission shall present a report on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the		

Commission with the information necessary for the preparation of that report.		
<i>Article 64 Repeal and transitional provisions</i>		
Directive 94/62/EC is repealed with effect from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. However, the following transitional provisions shall apply: (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = 42 months after the date of entry into force of this Regulation]; (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 36 months after the data entry into force of this Regulation]; (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last		

day of the ~~same~~ calendar year ~~following~~ in which the period of 36 months after the date of entry into force ends of this Regulation], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months after the date entry into force of this Regulation]. <u>(ca) Commission Decision 2001/171/EC and Commission Decision 2009/292/EC shall remain into force and continue to apply until repealed by delegated acts adopted by the Commission adopted pursuant to Article 5(5a) of this Regulation.</u> References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.		
<i>Article 65 Entry into force and application</i>		

This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States.	PUBLIC																							
 <u>ANNEX XIII</u> <u>CORRELATION TABLE</u>																								
<table><tr><td><i>Directive 94/62/EC</i></td><td><i>This Regulation</i></td></tr><tr><td>Article 1(1)</td><td>Article 1(1-2)</td></tr><tr><td>Article 1(2)</td><td>Article 1(3)</td></tr><tr><td>Article 2(1)</td><td>Article 2(1)</td></tr><tr><td>Article 2(2)</td><td>Article 2(2)</td></tr><tr><td>Article 3(1), first subparagraph</td><td>Article 3(1)</td></tr><tr><td>Article 3(1), second subparagraph, point (a)</td><td>Article 3(2)</td></tr><tr><td>Article 3(1), second subparagraph, (b)</td><td>Article 3(3)</td></tr><tr><td>Article 3(1), second subparagraph, point (c)</td><td>Article 3(4)</td></tr><tr><td>Article 3(1), third subparagraph, point (i)</td><td>Article 3(1)(a)</td></tr><tr><td>Article 3(1), third subparagraph, point (ii)</td><td>Article 3(1)(d-e)</td></tr></table>	<i>Directive 94/62/EC</i>	<i>This Regulation</i>	Article 1(1)	Article 1(1-2)	Article 1(2)	Article 1(3)	Article 2(1)	Article 2(1)	Article 2(2)	Article 2(2)	Article 3(1), first subparagraph	Article 3(1)	Article 3(1), second subparagraph, point (a)	Article 3(2)	Article 3(1), second subparagraph, (b)	Article 3(3)	Article 3(1), second subparagraph, point (c)	Article 3(4)	Article 3(1), third subparagraph, point (i)	Article 3(1)(a)	Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)		
<i>Directive 94/62/EC</i>	<i>This Regulation</i>																							
Article 1(1)	Article 1(1-2)																							
Article 1(2)	Article 1(3)																							
Article 2(1)	Article 2(1)																							
Article 2(2)	Article 2(2)																							
Article 3(1), first subparagraph	Article 3(1)																							
Article 3(1), second subparagraph, point (a)	Article 3(2)																							
Article 3(1), second subparagraph, (b)	Article 3(3)																							
Article 3(1), second subparagraph, point (c)	Article 3(4)																							
Article 3(1), third subparagraph, point (i)	Article 3(1)(a)																							
Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)																							

Article 3(1), third subparagraph, point (iii)	Article 3(1)(b-c)	PUBLIC	
Article 3(1a)	Article 3(43)		
Article 3(1b)	Article 3(44)		
Article 3(1c)	Article 3(45)		
Article 3(1d)	Article 3(46)		
Article 3(1e)	---		
Article 3(2)	Article 3(20)		
Article 3(2a)	Article 10(1)		
Article 3(2b)	Article 3(19)		
Article 3(2c)	Article 3(60) and fourth subparagraph of Article 3		
Article 3(11)	Article 3(8)		
Article 3(12)	---		
Article 4(1), first subparagraph	Article 38(2)		
Article 4(1), second subparagraph	---		
Article 4(1), third subparagraph	Article 38(3)		
Article 4(1a), first subparagraph	Article 29(1), first subparagraph		
Article 4(1a), second subparagraph	Article 29(2), second sentence		
Article 4(1a), third subparagraph	Article 29(2), first sentence		
Article 4(1a), fourth subparagraph, point (a)	Article 29(1), second subparagraph		
Article 4(1a), fourth subparagraph, point (b)	Article 29(4)		
Article 4(1a), fifth subparagraph	Article 50(1), point (b)		

Article 4(1a), sixth subparagraph	Article 50(7), point (b)		
Article 4(1b)	Article 29(3)		
Article 4(1c)	---		
Article 4(2)	---		
Article 5(1)	Article 45(1)		
Article 5(1)(a)	Article 45(2), point (a)		
Article 5(1)(b)	Article 26(1-10)		
Article 5(1)(c)	Article 45(2), point (b)		
Article 5(1)(d)	Article 45(2) point (c)		
Article 5(2), first subparagraph	Article 48(1), first subparagraph		
Article 5(2), second subparagraph, point (a)	Article 48(1), second subparagraph, point (a)		
Article 5(2), second subparagraph, point (b)	Article 48(1), second subparagraph, point (b)		
Article 5(2), third subparagraph	Article 48(1), third subparagraph		
Article 5(3)	Article 48(2)		
Article 5(4)	Article 50(7), point (a)		
Article 5(5)	---		
Article 6(1)(a)	---		
Article 6(1)(b)	---		
Article 6(1)(c)	---		
Article 6(1)(d)	---		
Article 6(1)(e)(i)	---		
Article 6(1)(e)(ii)	---		
Article 6(1)(e)(iii)	---		
Article 6(1)(e)(iv)	---		
Article 6(1)(e)(v)	---		
Article 6(1)(f)	Article 46(1)(a)		

Article 6(1)(g)(i)	Article 46(1)(b)(i)	PUBLIC	
Article 6(1)(g)(ii)	Article 46(1)(b)(ii)		
Article 6(1)(g)(iii)	Article 46(1)(b)(iii)		
Article 6(1)(g)(iv)	Article 46(1)(b)(iv)		
Article 6(1)(g)(v)	Article 46(1)(b)(v)		
Article 6(1)(g)(vi)	Article 46(1)(b)(vi)		
Article 6(1)(h)	Article 46(1)(c)		
Article 6(1)(i)(i)	Article 46(1)(d)(i)		
Article 6(1)(i)(ii)	Article 46(1)(d)(ii)		
Article 6(1)(i)(iii)	Article 46(1)(d)(iii)		
Article 6(1)(i)(iv)	Article 46(1)(d)(iv)		
Article 6(1)(i)(v)	Article 46(1)(d)(v)		
Article 6(1)(i)(vi)	Article 46(1)(d)(vi)		
Article 6(1a)(a)	Article 46(2)(a)		
Article 6(1a)(b)	Article 46(2)(b)		
Article 6(1a)(c)	Article 46(2)(c)		
Article 6(1a)(d)	Article 46(2)(d)		
Article 6(1b)	Article 46(3)		
Article 6(1c)	Article 46(4)		
Article 6(4)(a)	Article 46(5)(a)		
Article 6(4)(b)	Article 46(5)(b)		
Article 6(6)	Article 49(2)		
Article 6(7)	---		
Article 6(10)	Article 46(6)		
Article 6(11)	---		
Article 6a(1)(a)	Article 47(2)		
Article 6a(1)(b)	Article 47(3)		
Article 6a(2)	Article 47(6)		
Article 6a(2)(a)	Article 47(6)(a)		
Article 6a(2)(b)	Article 47(6)(b)		

Article 6a(3)	Article 47(7)	PUBLIC	
Article 6a(4)	Article 47(8)		
Article 6a(5)	Article 47(9)		
Article 6a(6)	Article 47(10)		
Article 6a(7)	Article 47(11)		
Article 6a(8)	Article 47(12)		
Article 6a(9)	Article 50(7), point (a)		
Article 6b	Article 36		
Article 7(1)	Article 43(1) and (2)		
Article 7(2)	Articles 39-42		
Article 7(3)	Article 43(3)		
Article 7(4)	Article 43(4)		
Article 8(1)	Article 11		
Article 8(2)	Article 11(1)		
Article 8(3)	Article 11(4)		
Article 8a	Article 11(1) and (5)		
Article 9(1)	Articles 5-10		
Article 9(2)(a)	Article 31		
Article 9(2)(b)	---		
Article 9(3)	---		
Article 9(4)	---		
Article 9(5)	---		
Article 10	Article 31(2)		
Article 11(1)	Article 5(2)		
Article 11(2)	---		
Article 11(3)	Article 5(5)		
Article 12(1)	Article 51(1)		
Article 12(2)	Article 51(2)		
Article 12(3a)	Articles 50(1) point (a), 50(3) point (a) and 50(4)		

Article 12(3b)	Article 50(5) and 50(6)	PUBLIC	
Article 12(3c)	-		
Article 12(3d)	Article 50(7)		
Article 12(4)	Article 50(8)		
Article 12(6)	Article 50(8)		
Article 13, first subparagraph	Article 49(1)		
Article 13, second subparagraph	---		
Article 14	Article 37		
Article 15	Article 29, Article 38, Article 45		
Article 16(1)	---		
Article 16(2)	---		
Article 18	Article 4		
Article 19(1)	---		
Article 19(2)	---		
Article 20	---		
Article 20a(1)	---		
Article 20a(2)	---		
Article 20a(3)	---		
Article 21(1)	Article 59(1)		
Article 21(2), first subparagraph	Article 59(3), first subparagraph		
Article 21(2), second subparagraph	Article 59(3), second subparagraph		
Article 21a(1)	Article 58(1)		
Article 21a(2)	Article 58(2)		
Article 21a(3)	Article 58(3)		
Article 21a(4)	Article 58(4)		
Article 21a(5)	Article 58(5)		
Article 21a(6)	Article 58(6)		

Article 22(1)	---	PUBLIC	
Article 22(2)	---		
Article 22(3)	---		
Article 22(3a), first subparagraph	---		
Article 22(3a), second subparagraph, point (a)	---		
Article 22(3a), second subparagraph, point (b)	---		
Article 22(3a), second subparagraph, point (c)	---		
Article 22(3a), second subparagraph, point (d)	---		
Article 22(3a), second subparagraph, point (e)	---		
Article 22(3a), second subparagraph, point (f)	---		
Article 22(4)	---		
Article 22(5)	---		
Article 23	---		
Article 24	---		
Article 25	---		
Annex I	Annex I		
Annex II, point 1	Articles 5, 6, 9 and 10 and Annexes II and IV		
Annex II, point 2	Article 10 and Annex IV		
Annex II, point 3(a)	Article 6 and Annex II		
Annex II, point 3(b)	---		
Annex II, point 3(c)	Articles 8 and 3(41) and Annex III		
Annex II, point 3(d)	Articles 8 and 3(41) and Annex II		

Annex III	Annex XII		
Annex IV	Annex XI		

PUBLIC

PT COMMENTS**ANNEX I – PART 2 OF THE TEXT REV01. CLUSTER 2, 4 AND 5.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 2,4 and 5 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 2 – Labelling, marking and information requirements		
<i>Recitals corresponding cluster 2:</i>		
(44) It is necessary to inform consumers and to enable them to appropriately dispose of packaging waste, including compostable lightweight and very lightweight plastic carrier bags. The most appropriate manner to do this is to establish a harmonised labelling system based on the material composition of packaging for sorting of waste, and to pair it with corresponding labels on waste receptacles.		
(45) To facilitate consumers ~~in the~~ sorting and disposing of packaging waste, a system of harmonised symbols should be introduced and required to be placed both on packaging and on waste receptacles, thus allowing consumers to match the symbols for the purposes of disposal. The symbols should enable appropriate waste management as it should		

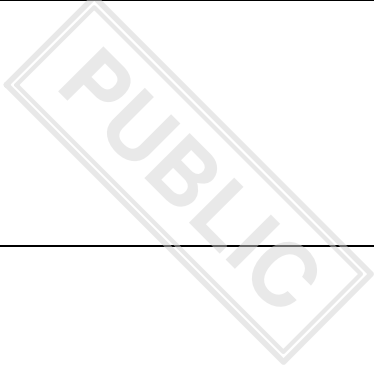
provide consumers with information about the composting properties of such packaging, in particular to avoid consumer confusion that compostable packaging is not as such suitable for home-composting, but only biodegradable in industrially controlled conditions in bio-waste treatment facilities with industrial composting or anaerobic digestion. <u>It is only specifically home-compostable packaging which is suitable for home-composting.</u> This approach should improve the separate collection of packaging waste, leading to higher quality recycling of packaging waste, and introduce a level of harmonisation of the packaging waste collection systems on the internal market. It is also necessary to harmonise symbols associated with the mandatory deposit and return systems. Considering that it is not collected through municipal waste collection systems, the use of those symbols should not be mandatory for transport packaging with the exception of the e-commerce packaging.		

(46) Labelling of recycled content in packaging should not be mandatory as this information is not critical to ensure the proper end-of-life treatment of packaging. However, manufacturers will be required to meet recycled content targets under this Regulation and they may wish to display that information on their packaging to inform consumers thereof. To ensure that this information is communicated in a harmonised manner across the Union, a label to indicate the recycled content should be harmonised.		
(47) In order to inform end-users about reusability, availability of systems for re-use and location of collection points as regards reusable packaging, such packaging should bear a QR code or other data carrier that provides such information. The QR code <u>may contain information which should also</u> facilitates tracking and the calculation of trips and rotations. In addition, reusable sales packaging should be clearly identified at the point of sale.		
(48) There should be no multiplication of labels on packaging. In order to avoid this, where other Union legislation		

requires information on the packaged product to be available digitally through a data carrier, the information required for the packaging under this Regulation and the information required for the packaged product should be accessible via the same data carrier. That data carrier should comply with the requirements under this Regulation or other applicable Union legislation. In particular, where the packaged product is covered by the Regulation [Ecodesign for Sustainable Products] or other Union legislation requiring a digital product passport, that digital product passport should also be used for providing the relevant information under this Regulation. <u>Where packaging contains substances of concern, it should be marked using a standardised digital marking technology as established in implementing acts adopted by the Commission. This information should enable promoting circularity and to ensure that waste operators have access to relevant information on chemical composition to determine the most appropriate waste management option, according to the waste hierarchy, thus promoting packaging circularity.</u>		

(49) To support the implementation of the objectives of this Regulation, consumers should be protected from misleading and confusing information about packaging characteristics and its appropriate end-of-life treatment, for which harmonised labels have been established under this Regulation. It should be possible to identify packaging included in the extended producer responsibility scheme by means of an accreditation symbol throughout the territory of that system. That symbol should be clear and unambiguous to consumers or users as to the recyclability of packaging. To this end, it could be considered that the Green Dot symbol, which is used in some Member States to signify that a producer has made a financial contribution to a national packaging recovery system¹, could mislead consumers to believe that packaging bearing such a symbol is always recyclable. ¹ https://www.pro-e.org/the-green-dot-trademark		

<u>(49a) Packaging covered by the mandatory deposit and return systems should bear a label informing the consumers that such packaging is covered by the system and therefore should be collected through specific collection points. This label should be a harmonised EU label established by the Commission. In addition, if any, it should be allowed to use other labels for deposit and return systems established under national or regional legislation.</u>		
(49ab) [Placeholder: Directive 2005/29/EC works as a ‘safety net’ ensuring a high level of consumer protection in all sectors, complementing more detailed requirements in sector or product-specific Union law, unless in case of conflict between the provisions of the Directive and other Union rules related to specific aspects of unfair commercial practices, where the latter should prevail and apply to those specific aspects. The proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, provides that		

displaying a voluntary sustainability label, which does not meet certain requirements, constitutes an unfair commercial practice.]		
(50) In order to ensure uniform conditions for the implementation of the labelling requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to further improve waste sorting, to establish the conditions for identifying the material composition of packaging by means of <u>standardised, open,</u> digital ~~marking~~ technologies, and to lay down detailed harmonized specifications for the labelling requirements for packaging and waste receptacles established under this Regulation. When developing these specifications, the Commission should <u>keep linguistic elements to a minimum and</u> take into account scientific or other available technical information, including relevant international standards. The labelling of packaging subject to a harmonised deposit and return system should be designed with consideration <u>given</u> to the ~~different countries' currency deposit system variation in the deposit being charged, which may exist between Member States.~~ In view of the		

new system, Commission Decision 97/129/EC ² should be repealed as of 42 months after the date of entry into force of this Regulation and its content incorporated into this implementing act.		
<i>Article 11 Labelling of packaging</i>		
1. From <u>42 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest,</u> ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, ~~packaging~~ <u>packaging placed on the market</u> shall be marked with a label containing information on its material composition <u>and including</u> for the packaging referred to in <u>Article 8(1) and (2), that the material is compostable.</u> This obligation does not apply to transport packaging. However, it applies to e-commerce packaging. Packaging subject to deposit and return systems referred to in Article 44(1) shall, ~~in addition to the labelling referred to in the first~~		

² 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).

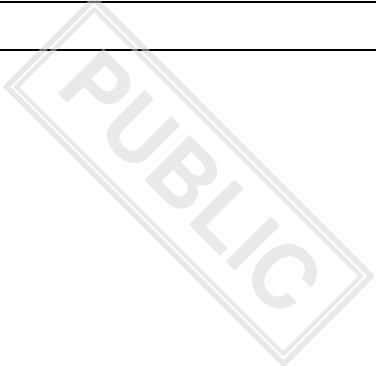
~~subparagraph~~, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.		
2. Reusable packaging placed on the market ~~from~~ <u>48 months after the entry into force of this Regulation or 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the latest</u> ~~[OP: Please insert the date = 48 months after the date of entry into force of this Regulation]~~, packaging shall bear a label informing that ~~it~~ the packaging is reusable ~~on packaging reusability~~ and a QR code or other type of <u>standardized, open,</u> digital data carrier that provides further information on packaging reusability including the availability of a <u>local, national or EU-wide</u> system for re-use and ~~of information~~ <u>on</u> collection points, and that facilitates the tracking of 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 ~~If~~ a unit of packaging <u>is covered by Article 7</u> placed on the market from <u>42 months after the entry into force of this Regulation, 24 months after the entry into force of the implementing act referred to in paragraph 5, whichever is the</u>	3. Where ~~If~~ a unit of packaging <u>is covered by Article 7</u> placed on the market from <u>42 months after the entry into force of this Regulation, or 24 months after the entry</u>	Proposed to align with the type of wording of paragraph 1

<u>latest</u> ~~[OP: Please insert the date – xx months after the entry into force of this Regulation]~~, and is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5) and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to Article 11(5).	into force of the implementing act referred to in paragraph 5, whichever is the latest ~~[OP: Please insert the date – xx months after the entry into force of this Regulation]~~, and is marked with a label containing information on the share of recycled content in the plastic part, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to ~~Article 11(5)~~ paragraph 5 and shall be based on the methodology pursuant to Article 7(7). ~~Where~~ If a unit of plastic packaging is marked with a label containing information on the share of biobased plastic content, that label shall comply with the specifications laid down in the relevant implementing act adopted pursuant to ~~Article 11(5)~~ paragraph 5.	
4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed,		

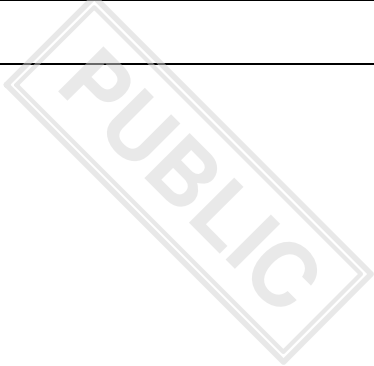
printed or engraved visibly, clearly and legibly ~~and indelibly~~ on the packaging; and the information shall be available to end users before the purchase of the product in distance sales ~~when the product is sold online~~ e. Where this is not possible or not warranted ~~on account of the nature and size of the packaging, they shall be affixed to the grouped packaging.~~ The information contained in the QR code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made available on the market. Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.		
5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 ~~and the labelling of waste receptacles referred to in Article 12.~~ <u>The Commission shall take</u>		

<u>into account the specificities of composite packaging when developing the implementing act.</u> When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(1) the Commission shall <u>take into consideration any variation which may exist in the deposit charged by the Member States' different currencies and deposits system.</u> ~~The Commission shall take into account the specificities of composite packaging when developing the implementing act.~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
6. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of <u>standardised, open,</u> digital marking technologies, including for composite packaging and packaging that consists of several parts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>The identification of substances of concern by means of standardized, open, digital technologies shall also be included and shall include at least the name and concentration of the</u>		

<u>substance of concern present in each material in a packaging unit.</u> <u>The packaging placed on the market containing substances of concern shall be marked using the technology as referred to in this paragraph by 2030.</u>		
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.		
8. Packaging included in an extended producer responsibility scheme ~~or covered by a deposit and return system other than that referred to in Article 44(1)~~ may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.		

<u>8a. Packaging covered by a deposit and return system referred to in Article 44(1) shall be labelled with the harmonised label in accordance with paragraph 1. These packaging may, in addition, by virtue of national law and on the condition that this does not lead to distortions on the internal market or trade barriers for products from other Member States, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. Packaging covered by a deposit and return system other than that referred to in Article 44(1) may, by virtue of national law, be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. The symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</u>		
<i>Article 12 Labelling of waste receptacles for the collection of packaging waste</i>		
<u>1a. By 1 January 2028, ~~[OP: Please insert the date = 42 months after the entry into force of this Regulation]~~, 42 months after the entry into force of this Regulation, or 24 months after the entry</u>		

<u>into force of the implementing acts referred to in paragraph 1b, whichever is the latest.</u> Member States shall ensure that labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles ~~shall be~~ are affixed, printed or engraved visibly, legibly and indelibly on all waste receptacles for collection of packaging waste. <u>A receptacle for packaging waste may bear more than one label.</u> This obligation does not apply to receptacles covered by a deposit and return system.		
<i>Cluster 4 Waste prevention</i>		
<i>Recitals corresponding cluster 4:</i>		
<u>(10a) Cups, food containers, sandwich bags or other items, which can perform a packaging function, should not be considered as being packaging when they are not designed and intended to be filled at the point of sale. Only when these items are designed and intended to be filled at the point of sale or offered for sale pre-filled, they should be considered packaging, provided that they perform a packaging function.</u>		

(40) Packaging should be designed so as to minimise its volume and weight while maintaining its ability to perform the packaging functions. 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 13428:2000^[1], should therefore be modified. 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 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. 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. [1] Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction.		
(41) In order to comply with the packaging minimisation requirements, particular attention should be paid to limiting the empty space in; grouped and transport packaging, including e-commerce packaging.		
(42) In order to facilitate conformity assessment with requirements on packaging minimisation, it is necessary to provide presumption of conformity for packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements and specify measurable design		

criteria, including where appropriate, maximum weight or empty space limits for specific packaging formats as well as by-default, standardised packaging designs that comply with the packaging minimisation requirement.		
(60) The problem of excessive packaging waste generation cannot be fully addressed by setting obligations on packaging design. For certain packaging types, obligations to reduce the empty space ratio should be set on economic operators who fill the packaging and in terms of reducing the empty space when for the use of such packaging. In case of grouped, transport and e-commerce packaging used for supply of products to final distributors or end user, the empty space ratio should not exceed 40 %. In line with the waste hierarchy and to promote packaging innovation with the aim of packaging waste reduction , it should be possible for economic operators using sales packaging as e-commerce packaging to be exempted from this obligation.		
(61) In order to ensure a high level of environmental protection in the internal market as well as a high level of food safety and food hygiene, and facilitate the achievement of the packaging waste		

prevention targets, unnecessary or avoidable packaging should not be allowed to be placed on the market. The list of such packaging formats is provided in Annex V of this Regulation. In order to adapt the list to the technical and scientific progress the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the list. <u>The Commission will publish guidelines explaining in more detail Annex V, including examples of the packaging and guidance as regards the exemptions.</u>		
(72) In view of the continued high consumption levels of plastic carrier bags, inefficient use of resources and their littering potential, it is appropriate to maintain provisions aimed at reaching a sustained consumption reduction of plastic carrier bags, as had already been established by Directive 94/62/EC as amended by the Directive (EU) 2015/720 of the European Parliament and of the Council^[1]. In view of the current divergent approaches and limited reporting requirements on the plastic carrier bags, it is difficult to assess whether the consumption reduction measures taken by the Member States have achieved the objective of a ‘sustained’ reduction in the		

consumption of such bags and also, if they have not increased the consumption of other types of plastic carrier bags. It is therefore necessary to harmonise a definition of sustained reduction consumption and set a common target as well as introduce new reporting requirements. ^[1] 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).		
(73) In view of the results of the evaluation study on plastic carrier bags^[1], 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. ^[1] 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) <u>To achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory,</u>~~The measures by Member States to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory~~ <u>may adopt measures which</u> include banning these types of plastic carrier bags, ~~the use of~~ implementation of national reduction targets, maintaining or introducing economic instruments as well as other marketing restrictions, provided that these ~~restrictions~~ measures are proportionate and non-discriminatory. Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		

(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for		

re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets, volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~C~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact</u>. Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should		

prevail within the scope of its application, ~~unless specifically provided otherwise in this Regulation.~~

Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to



<u>establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		Will directive 2019/904 be amended in order to add the list of prohibited plastic items with more items/packaging? If so, the rationale behind the preparation of the SUP Directive will not be fulfilled, which had to do with the items most found on beaches. We can not find article 45(4).
<i>Articles</i>		
<i>Definitions from Article 3 regarding cluster 4:</i>		
(21) ‘packaging waste prevention’ means measures that are taken before any packaging or packaging material has become packaging waste and that reduce the quantity of packaging waste, so that less or no packaging is required to contain, protect, handle, deliver or present products, <u>including re-use and measures to extend the life of the packaging before it becomes waste.</u>		

<i>Article 9 Packaging minimisation</i>		
~~1. Packaging shall be~~ The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.		How can this be applied to service packaging or e-commerce packaging?
2. The manufacturer or importer shall ensure that packaging ~~not necessary to~~ complying with any of the performance criteria set out in Annex IV ~~and/or~~ 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 subject to geographical indications of origin protected under Union legislation.		Shouldn't it be "not complying"?
<u>3. The economic operator who fills the packaging shall ensure that e</u>Empty space ~~shall be is reduced to the minimum necessary for~~		

~~ensuring the packaging functionality, including product protection, as follows:~~ ~~(a) for sales packaging, in relation to the total volume of the packaged product and its characteristics;~~ ~~(b) for grouped and transport packaging, including e-commerce packaging, in relation to the total volume of the grouped or transported products and their sales packaging;~~ ~~For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.~~		
4. Compliance with the requirements set out in paragraphs 1 and 2 shall be demonstrated in the technical documentation referred to in Annex VII, which shall contain the following elements: (a) an explanation of the technical specifications, standards, and conditions used to assess the packaging against the performance criteria and methodology set out in Annex IV;		

(b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria; (c) any test results, studies or other relevant sources such as modelling and simulation studies used to assess the minimum necessary volume or weight of the packaging. For reusable packaging, the assessment of compliance with the requirements set out in paragraph 1 shall take into account the function of reusable packaging as referred to in Article 10, and in the first place the requirements set out thereof.		
4a. months after entry into force of this Regulation, the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. <u>For certain most common packaging types and formats such standards should and specifying</u> maximum adequate weight and volume limits, and, if appropriate, <u>wall thickness and _maximum empty space for certain most common packaging types and formats.</u>		<i>Standards take a long time to be developed and require an acquisition cost to interested parties, which is why a likely limitation is imposed on SMEs.</i> <i>Given the content and the objective, non legislative acts seem to be more straightforward to execute, and accessible to all economic activities. It also has the advantage of being a procedure that can be changed more easily and quickly than a norm. We would prefer implementing acts.</i>

<i>Article 21 Obligation related to excessive packaging</i>		
1. Economic operators who supply products 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 %.		
2. For the purpose of this calculation: (a) empty space shall mean the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein; (b) empty space ratio shall mean the ratio of the empty space as defined in point (a) of this paragraph and the total volume of the grouped packaging, transport packaging or e-commerce packaging. Space filled by filling materials such as paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene		

or Styrofoam chips <u>or other filling materials</u> , shall be considered as empty space.		
<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>	<u>2a The economic operator who fills the sales packaging shall ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection. Empty space ratio for sales packaging shall mean the difference between the total volume of the packaged product and its characteristics—the packaging internal volume. For the purpose of assessing the compliance with this paragraph, space filled by paper cuttings, air cushions, bubble wraps, sponge fillers, foam fillers, wood wool, polystyrene, styrofoam chips or other filling materials shall be considered as empty space.</u>	Since there are recitals that address the other packaging in the scope of this article, we question if there should not be a recital (or an addenda to the exciting ones) examining also the sales packing empty space. A proposal is made to clarify the empty space ratio.
3. Economic operators using sales packaging as e-commerce packaging <u>or using reusable packaging</u> shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements set out in Article 9.		

<u>3a. 8 years after the entry into force of this Regulation, the Commission shall review the empty space ratio in paragraph 1 as well as the exemptions in paragraph 3. This includes establishing possible empty space ratios for sales packaging, particularly for toys, cosmetics, Do-It-Yourself kits and electronic products.</u>		
<i>Article 22 Restrictions on use of certain packaging formats</i>		
<u>1. At the latest, three years after entry into force of this Regulation,</u> ~~E~~ economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.		
<u>2. ~~By way of derogation from paragraph 1, economic operators shall not place on the market packaging in the formats and for the purposes listed in point 3 of Annex V as of 1 January 2030.~~</u>		

3. Member States may exempt micro-enterprises defined in accordance with the Commission Recommendation 2003/361/EC, ~~economic operators~~ from point 3 of Annex V ~~if they comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361~~, as publicly available ~~applicable~~ on [<i>OP: Please insert the date = the date of entry into force of this Regulation</i>], ~~and where~~ if it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system.		
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend Annex V in order to adapt it to technical and scientific progress with the objective to reducing packaging waste. When adopting those delegated acts, the Commission shall consider the potential of the restrictions on the use of specific packaging formats to reduce the packaging waste generated while ensuring an overall positive environmental impact, and shall take into		

account the availability of alternative packaging solutions that meet requirements set out in legislation applicable to contact sensitive packaging, as well as their capability to prevent microbiological contamination of the packaged product.		
4a. <u>48</u> months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, explaining in more detail Annex V, including examples of the packaging <u>formats in scope</u> and <u>guidance as regards the any</u> exemptions.		
<i>Article 29 Plastic carrier bags</i>		
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, or the equivalent target in weight, by 31 December 2025, and subsequently by 31 December in each year thereafter.		
2. Measures to be taken by Member States to meet the target set out in paragraph 1 may vary depending on the environmental impact of lightweight plastic carrier bags when they are manufactured, recycled or disposed of, and their composting properties, durability or specific intended use. Such measures may, by way of derogation from Article 4, include the banning of lightweight plastic carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory.		
3. In addition to the measures under paragraphs 1 and 2 above, Member States may take measures, such as economic instruments, and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		

<u>3a.</u> <u>In case the Member State adopts national reduction targets concerning certain plastic carrier bags, they can introduce measures to achieve such targets, which may, by way of derogation from Article 4, include the banning of such carrier bags or other marketing restrictions, provided that they are proportionate and non-discriminatory . If the measures take the form of bans, Member States shall monitor the effects of such measures and revoke the measures immediately in case there is a risk the end users can replace the use of banned carrier bags with a product having a more detrimental impact on the environment.</u>		
4. Member States may exclude very lightweight plastic carrier bags ~~which~~ that which are required for hygiene purposes or provided as sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		
<i>Article 38 Prevention of packaging waste</i>		
1. Each Member State shall reduce the packaging waste generated per capita, as compared to the packaging waste		

generated per capita in 2018 as reported to the Commission in accordance with Decision 2005/270/EC, by at least 1. 5 % by 2030; 1. 10 % by 2035; 1. 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. For the purpose of paragraph 2, Member States may introduce packaging waste prevention measures going beyond the minimum measures set out in this Article, while complying with the provisions set out in this Regulation. Such measures may include the use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as measures referred to in Annexes IV and IVa to Directive 2008/98/EC, or other appropriate instruments and measures, including incentives through extended producer		

responsibility schemes and requirements on producers or producer responsibility organisations to adopt waste prevention plans. ~~Such measures~~ They shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
<u>3a. By way of derogation from paragraph 1, Member States may at the latest by [xx] request to the Commission to use another base year than 2018 for the calculations of the targets under paragraph 1. Without prejudice to paragraph 2-3 of this Article, the Commission may allow Member States to use the requested base year when calculating the targets under paragraph 1 under the condition that the Member State provide substantiated evidence (i) of a significant increase of packaging waste during the year to be used for base as calculation of the targets under paragraph 1 (ii) that such increase is due to changes in the reporting procedures only, and (iii) the increase is not due to an increased consumption.</u>		

4. By [OP: Please insert the date = 8 years after the date of entry into force 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 the Commission finds it appropriate, by a legislative proposal.	PUBLIC	
~~5. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article.~~		
<u>ANNEX IV</u> <u>METHODOLOGY FOR PACKAGING MINIMISATION</u> <u>ASSESSMENT</u>		
PART I Performance criteria		

1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the end use, with a view to prevent significant product damage, loss, deterioration or waste. Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.		
2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. The packaging manufacturing processes may determine packaging design elements such as the shape of a container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.		

3. Logistics: The packaging design shall ensure adequate and safe distribution, transport, handling and warehousing of the packaged product. Requirements may consist of dimensional co-ordination for optimum space utilisation, compatibility with palletizing and de-palletizing systems, handling and warehousing system, packaging system integrity during transport and handling.		
4. Information requirements: The packaging design shall ensure that any necessary information regarding the packaged product itself, its use, storage and care, including safety instructions can be provided to users and consumers. Requirements may consist of providing product information, instructions for storage, application and use, bar codes, best before date, etc.		
5. Hygiene and safety: the packaging design shall ensure user and consumer safety as well as product safety and hygiene throughout the distribution, end use and disposal. Requirements may consist of: safe handling design, child resistance, tamper evidence,		

hazard warnings, clear identification of content, safe opening device, pressure release closure, etc.		
6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation.		
7. Recycled content, recyclability and re-use: The packaging design shall ensure reusability, recyclability and inclusion of recycled content as required under this Regulation. If the packaging is intended for re-use, it shall fulfil the requirements laid down in Article 10(1) of this Regulation. This means that the packaging weight or volume may have to be increased, beyond what would otherwise be possible under the other performance factors in order to enable for e.g. a higher number of trips / rotations, to facilitate inclusion of recycled content or to enhance recyclability (e.g., when moving to a mono- material).		

PART II Assessment methodology and determination of the minimum packaging volume and weight		
The assessment of the minimum packaging volume and weight necessary to ensure the packaging functionality as described in Article 3(1) of the Regulation shall be explained in the technical documentation and shall include at least:		
~~(b)~~ (aa) the description of the outcome of the assessment, including the details of the calculation of the minimum necessary weight and volume for the packaging. Possible variations between production batches for a same packaging shall be taken into account and documented;		
~~(a)~~ (ab) for each performance criterion as listed in Part I, ~~a list of design requirements~~ a description shall be made which explains the design requirement that ~~which~~ prevents further reduction of the packaging weight or volume without endangering the packaging functionality, including safety and hygiene, for the packaged		

product, packaging and user. The method used for the identification of these design requirements shall be described, and the reasons preventing further reduction of the packaging weight or volume shall be explained. All reduction opportunities with a given packaging material shall be investigated. It shall not be sufficient to substitute one packaging material with another;		
(c) any test results, market research or studies that have been used for the assessment conducted under points (aa) and (ab).		
ANNEX V RESTRICTIONS ON USE OF PACKAGING FORMATS		We no longer have reservations regarding this article, however considering the changes made in Annex V and in Article 26(2) and (3), there are questions as to whether there is a discrepancy between economic agents in the restriction measures imposed in Annex V, creating disruption in the application of these guidelines. It remains unclear how the predictions of these points of article 26 and the amendments in Annex V are combined. As for adding a new point 6 (restriction on plastic sleeves or wrappings) we would

					need more details and reasons to in order to endorse this new entry.
	Packaging format	Restricted use	Illustrative example		
1	Single-use plastic grouped packaging	Plastic packaging used at <u>the point of sale</u> ~~retail level~~ to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage <u>consumers</u> ~~end users~~ to purchase more than one product. This excludes grouped	Collation films, shrink wrap		

		packaging necessary to facilitate handling in <u>business-to-business</u> distribution.			
2	Single use ~~plastic packaging,~~ ~~single use composite packaging or other~~ single use packaging for <u>unprocessed</u> fresh fruit and vegetables	Single use packaging for less than 1.5 kg <u>pre-packed</u> fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards or physical shocks, <u>oxidation,</u> ~~with the exemption of~~	Nets, bags, trays, containers		

		<u>packaging</u> <u>needed to</u> <u>avoid</u> <u>commingling</u> <u>of organic</u> <u>fruits and</u> <u>vegetables</u> <u>with non-</u> <u>organic fruits</u> <u>and</u> <u>vegetables</u> <u>according to</u> <u>Regulation</u> <u>(EU)</u> <u>2018/848.</u> <u>Exemptions</u> <u>can also be</u> <u>made in the</u> <u>case there is</u> <u>no other</u> <u>possibility to</u> <u>comply with</u> <u>the</u> <u>requirements</u> <u>in regulation</u> <u>EU 2018/848,</u> <u>such as</u>			



		<u>certification or labelling.</u>			
3	Single use ~~plastic packaging,~~ ~~single use composite packaging or other single use packaging~~	Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating areas inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by	Trays, disposable plates and cups, bags, ~~foil~~ , boxes		

		several economic operators or third party for the purpose of food and drinks consumption. <u>Packets and wrappers made from flexible material for the purpose of containing food that is intended for immediate consumption from the packet or wrapper without any further preparation, may be exempted.</u>			

4	Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector	Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation	Sachets, tubs, trays, boxes	PUBLIC	
5	Single use hotel miniature packaging	For <u>disposable</u> cosmetics, hygiene and toiletry products of	Shampoo bottles, hand and body lotion bottles, sachets around		

		less than 50 ml for liquid products or less than 100 g for non-liquid products <u>for the use in the accommodati on sector, according to NACE Rev. 2 – Statistical classification of economic activities^[1], intended for a single service and discarded before the next guest arrives.</u> ^[1] NACE code I55, list can be found in EUROPA - Competition - Cases by NACE code - I	miniature—bar soap		

Cluster 5 General provisions including the legal basis (Articles 1,2,4)		
<i>Recitals</i>		
(1). Products need packaging to be protected and easy to transport from where they are produced to where they are used or consumed. Prevention of barriers ~~to~~on the internal market for packaging is key for the functioning of the internal market for products. Fragmented rules and vague requirements cause additional cost to the economic operators.		
(2). In addition, packaging uses high amounts of virgin materials (40 % of plastics and 50 % of paper use in the Union is for packaging) and represents 36 % of municipal solid waste^[1]. High and constantly growing levels of packaging generated as well as low levels of re-use and poor recycling, present significant barriers to achieving a low-carbon circular economy. For these reasons, this Regulation should establish rules over the entire life-cycle of packaging contributing to the efficient functioning of the internal market by harmonising national measures, while preventing and reducing the		

adverse impacts of packaging and packaging waste on the environment and human health. By laying measures in line with the hierarchy of waste, it should contribute to the transition to a circular economy. ^[1] Eurostat, Packaging waste statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Packaging_waste_statistics		
(3) .European Parliament and Council Directive 94/62/EC^[1] lays down requirements for Member States on packaging, such as essential requirements, which relate to the composition of packaging and its reusable and recoverable nature, and recovery and recycling targets. ^[1] European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).		
(4) .In 2014, a Fitness Check relating to Directive 94/62/EC^[1] recommended adaptations of the essential requirements to make them “more concrete and easily enforceable” and to strengthen them,		

which were seen as a key tool to achieve better environmental performance of packaging. ^[1] European Commission (2014), Ex-post evaluation of Five Waste Stream Directives, – SWD (2014)209		
(5). In line with the Green Deal^[1], the new Circular Economy Action Plan (CEAP)^[2] 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 Union-wide labelling that facilitates the correct separation of packaging waste at source. ^[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN ^[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:98:FIN&WT.mc_id=Twitter		

(6). Plastic packaging is the most carbon-intensive material and, in terms of fossil fuel use, recycling of plastic waste is approximately five-times better than incineration with energy recovery^[1]. Just as the European Strategy for Plastics^[2] states, CEAP commits to increase uptake of recycled plastics and contribute to the more sustainable use of plastics. The Union budget and the system of own resources contribute to reducing pollution from plastic packaging waste^[3]. As of 1 January 2021, the Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union introduced a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each Member State. This own resource is part of incentives to reduce the consumption of single-use plastics, foster recycling and boost the circular economy.

^[1] 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.

^[2] 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.



^[3] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom COM(OJ L 424, 15.12.2020, p. 1).		
(7). The Council underlined in its Conclusions of December 2020^[1], that the revision of Directive 94/62/EC should update and establish more concrete, effective and easy to implement provisions to facilitate 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 materials, especially concerning food packaging materials, and to provide for labelling packaging in an easily understandable way to inform consumers about its recyclability and where its waste should be discarded to facilitate sorting and recycling. ^[1] https://data.consilium.europa.eu/doc/document/ST-13852-2020-INIT/en/pdf		
(8). The European Parliament's Resolution of 10 February 2021 on the New Circular Economy Action Plan^[1] reiterated the objective of making all packaging reusable or recyclable in an economically viable way by 2030 and called on the Commission to present a		

legislative proposal including waste reduction measures and targets and ambitious essential requirements in the Packaging and Packaging Waste Directive to reduce excessive packaging, including in e-commerce, improve recyclability and minimise the complexity of packaging, increase recycled content, phase out hazardous and harmful substances, and promote re-use. ¹¹ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.html		
(12). In line with the waste hierarchy set out in Article 4(2) of Directive 2008/98/EC, and in line with life-cycle thinking to deliver the best overall environmental outcome, the measures provided for 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 packaging minimisation, avoiding packaging where it is not needed, and increased re-use of packaging. In addition, 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 higher recycling rates for all packaging and high quality of the resulting secondary raw materials while reducing other forms of recovery and final disposal.		

(13). Packaging should be designed, manufactured and commercialised in such a way as to allow for 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.		
(32). It should be recalled that food contact materials containing recycled plastic should comply with the requirements in Regulation (EU) 2022/1616, which includes requirements on recycling technologies. Regarding plastic packaging except where made from polyethylene terephthalate (PET), it will be warranted, sufficiently ahead of the date of application of the related recycled content requirements, to re-assess the availability of suitable recycling technologies for such plastic packaging, also with respect to the state of authorisation under relevant Union rules, and the installation in practice of such technology. Based on this assessment, there might be need to provide for derogations from the recycled content requirements for specific contact sensitive plastic packaging concerned, or to revise the derogations. To that end, the power to		

adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.		
<i>Articles</i>		
<i>Article 1 Subject matter</i>		
1. This Regulation establishes requirements for the entire life cycle of packaging as regards environmental sustainability and labelling, to allow its placing on the market, as well as for the extended producer responsibility, collection, and treatment, including ~~and~~ recycling of packaging waste.		
2. This Regulation contributes to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste in order to avoid obstacles to trade, distortion and restriction of competition within the		

Union, while preventing or reducing the adverse impacts of packaging and packaging waste on the environment and human health, on the basis of a high level of environmental protection.		
3. This Regulation contributes to the transition to a circular economy, by laying down measures in line with the hierarchy of waste in accordance with Article 4 of Directive 2008/98/EC.		
<i>Article 2 Scope</i>		
1. This Regulation applies to all packaging, regardless of the material used, and to all packaging waste, whether such waste is used in or originates from industry, other manufacturing, retail or distribution, offices, services or households.		

2. This Regulation applies without prejudice to Union regulatory requirements for packaging such as those regarding safety, quality, the protection of health and the hygiene of the packed products, or to transport requirements, as well as without prejudice to the provisions of the Directive 2008/98/EC as regards the management of hazardous waste.		
<i>Article 4 Free movement</i>		
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 making available on the market for the first time within the territory of a Member State of packaging that		

complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 ~~0~~ of this Regulation.		
~~3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.~~		
4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the ~~placing~~ making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements.		

5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system ~~other than those referred to in Article 44(1)~~ .		
6. At trade fairs, exhibitions or similar events, Member States shall not prevent the showing of packaging, which does not comply with this Regulation, provided that a visible sign clearly indicates that such packaging does not comply with this Regulation and that it is not for sale until it has been brought into conformity.		

PUBLIC

PT COMMENTS**ANNEX II – PART 3 OF THE TEXT REV01. CLUSTER 6, 8 - 11.**

Dear Delegates,

Kindly find attached the recitals, articles and annexes of the REV_1 discussed at the meetings on 22 and 23 June 2023 for the PPWR regarding Clusters 6 and from 8 to 11 in a table form. We kindly ask for your detailed and specific comments by **31st July 2023**.

Kindly note the following important instructions when completing the table:

- Please do not delete any lines or squares from the table and do not insert any new lines or squares;
- Insert your comments into the 2nd and 3rd columns of the table only, in the line/square corresponding the provision concerned.
- For drafting suggestions please highlight amendments in bold and deletions in bold strikethrough
- You are free to change header/footer of the attached file as you wish - but please keep the table intact.

Delegations are particularly invited to express for which Articles and specific paragraphs more flexibility is still needed and how this could be achieved in concrete track changes proposals. Also in these cases, more information on the specific, national circumstances and examples that require such flexibility are also welcomed.

REV 01_text proposal	Drafting Suggestions	Motivation
2022/0396 (COD)		
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		

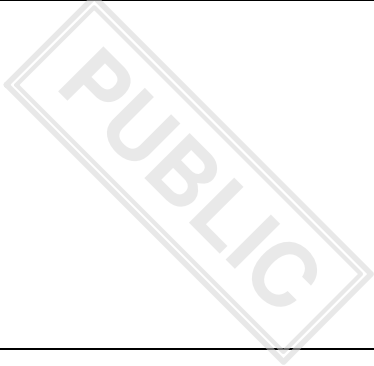
REV 01_text proposal	Drafting Suggestions	Motivation
Cluster 6 Management of packaging waste		
<i>Recitals corresponding Cluster 6</i>		
(84) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and 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.		

(85) Despite packaging minimisation requirements and objectives as laid down in Directive 94/62/EC, packaging waste generation has been increasing in absolute terms and on a per capita basis and trends indicate a further steep decline in re-use and refill of packaging amplified by increased on-the-go consumption and e-commerce. As products, materials and consumption patterns have evolved, there has been a significant rise in the use of single use packaging, especially single use plastic. This is linked to the retail landscape, with larger distribution networks, manufacturing and packing products on high-speed packaging lines, which exert a combined downward pressure on the market for re-use and refill.		
(86) In order to monitor and verify compliance of producers and producer responsibility organisations with obligations under Extended Producer Responsibility relating to the collection and treatment of waste from their products it is necessary that Member States designate one or more competent authorities.		

(87) In order to ensure better, timelier and more uniform implementation of the obligations by Member States and anticipate any implementation weaknesses, a system of early warning reports should be maintained to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets. Extension of this system, which has under Directive 94/62/EC covered the attainment of recycling targets, should include also packaging waste reduction targets to be attained by Member State by 2030 and 2035.		
(88) As collection and management of packaging and packaging waste is an important element of waste management in general, Member States should dedicate a separate chapter to this issue in waste management plans prepared in the execution of obligation laid down in Directive 2008/98/EC. As regard to the mMeasures on waste prevention and re-use, these should be included in the waste prevention programmes required pursuant to Directive 2008/98/EC be given particular attention. <u>These chapters can be added to the waste management plan and the waste prevention programme as part of their next regular evaluation specified in Directive 2008/98/EC, or earlier.</u>		

(89) This Regulation builds on the waste management rules and general principles laid down in Directive 2008/98/EC.		
(90) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that economic operators take appropriate measures to reduce the waste generation by eliminating excessive packaging and restrict the uses of certain packaging formats, extending the life span of packaging, re-designing products so that no packaging or less packaging can be used, including bulk sales, and by shifting from single use packaging to reusable packaging.		
(91) To achieve an ambitious and sustained reduction in the overall packaging waste generation, targets should be laid down for the reduction of packaging waste per capita to be achieved by 2030. Meeting a target of 5 % reduction in 2030 compared to 2018 should		

entail an overall absolute reduction of approximately 19 % on average across the Union in 2030 compared to the 2030 baseline. Member States should reduce packaging waste generation by 10 %, compared to 2018, by 2035; this is estimated to reduce packaging waste by 29 % compared to the 2030 baseline. In order to ensure that the reduction efforts continue beyond 2030, a reduction target of 10 % from 2018, which would mean a reduction of 29 % compared to baseline, should be set for 2035 and, for 2040, a reduction target of 15 % from 2018, which means a reduction of 37 % compared to baseline should be established.		
(92) Member States may achieve these targets by economic instruments and other measures to provide incentives for the application of the waste hierarchy, including measures to be implemented through extended producer responsibility schemes, and by promoting the setting up and effective operation of systems for re-use and encouraging economic operators to offer the end users further possibilities to refill. Such measures should be adopted in parallel and in addition to other measures under this Regulation aiming at packaging and packaging waste reduction, such as requirements on packaging minimisation, re-use and refill targets,		

volume thresholds and measures to achieve the sustained reduction of consumption of lightweight plastic carrier bags. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum targets set out in this Regulation.		
(93) 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 of the European Parliament and of the Council^[1], makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark. To this end, this Regulation builds on the extended producer responsibility (EPR) requirements in Directive 2008/98/EC in order to ensure that the EPR system is set up to cover the full waste management costs of packaging and to facilitate adequate controls by the competent authorities. The Regulation seeks to clearly define one producer per packaging unit, be it for empty~~		

<u>packaging or for packaging containing products. As a general rule, the producer should be the economic operator located in the Member State where the packaging is made available for the first time. The exception is when packaging is made available by means of distance contracts directly to the end-user when the producer is established outside the EU. The definition of producer takes into account, which economic operator is best placed to comply with the producer-related obligations, but also seeks to minimize unnecessary administrative burden for small businesses filling service packaging at the point of sale.</u> ⌌ 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).		
(94) In order to monitor that producers meet their obligations relating to their financial, and organisational obligations to ensuring the management of the waste from the packaging they make available for the first time on the market of a Member State, it is necessary		

that a register is established and managed by the competent authority in each Member State and that producers should be obliged to register.		
(95) The registration requirements should be harmonised across the Union to the greatest extent possible so to facilitate registration in particular where producers make packaging available in different Member States. In order to ensure uniform conditions for the implementation of the registration requirements, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to lay down a common format for registration in and reporting to the register, detailing the data to be reported.		
(96) In line with the polluter-pays principle expressed in Article 191(2) of the Treaty, it is essential that the producers placing on the Union market packaging and packaged products take responsibility		

for their management at their end-of life. It should be recalled that extended producer responsibility schemes need to be established, as provided for in Directive 94/62/EC, by 31 December of 2024, as they are the most appropriate means to achieve this and can have a positive environmental impact by reducing the generation of packaging waste and increasing its collection and recycling. There are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore in general apply to extended producer responsibility schemes for producers of packaging, and be complemented by further specific provisions where this is necessary and appropriate. <u>For example, in order to facilitate the separate collection of packaging waste, the producers shall finance the labelling of waste receptacles. This is in line with the producer pay principle and the general minimum requirements for EPR schemes established in Directive 2008/98/EC.</u>		
(96a) As regards extended producer responsibility (EPR) obligations, this Regulation is a <i>lex specialis</i> in relation to		

Directive 2008/98/EC, which means that where this Regulation ~~has~~ sets out EPR-related provisions, these should prevail over any conflicting provisions in that Directive. This concerns, for example, requirements on producer registration, fee eco-modulation of EPR fees and reporting. ~~However, all~~ Where this Regulation does not provide for a full harmonisation as regards ~~other~~ measures related to EPR or additional rules on non-harmonised topics in relation to EPR, Member States should be able to provide for additional measures, provided such measures are in accordance with Directive 2008/98/EC and consistent both with the national laws transposing that Directive and with this Regulation, should be regulated in accordance with the provisions of Directive 2008/98/EC and national rules transposing that Directive, without and do not create barriers to the internal market. ~~Furthermore, this Regulation does not regulate arrangements of the systems of collection of packaging waste, as this is an example of a matter that is set by national law transposing Directive 2008/98/EC. The same rule applies as regards separate collection of packaging waste and the labelling of waste receptacles. However, this Regulation does not regulate which operator is responsible for the collection of packaging~~

PUBLIC

<u>waste and other national contractual arrangements for packaging waste collection.</u>		
<u>(96b) In addition to the harmonized requirement on recyclability for the modulation of the producers' financial contributions as detailed in accordance with the delegated acts referred to in Article 6(4) and (6), Member States should be allowed to use other criteria, such as recycled content, reusability, presence of hazardous substances or other criteria in accordance with point (b) of paragraph 4 of Article 8a Directive 2008/98/EC.</u>		
(97) Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation by the Member States and should document, inter alia, that they have the financial means to cover the costs entailed by the extended producer responsibility. Member States, when laying down administrative and procedural rules of authorisation of producers for individual and		

producer responsibility organisations for collective compliance, could differentiate processes for individual producers and producer responsibility organisation to limit the administrative burden on individual producers. It should be recalled that Member States may authorise multiple producer responsibility organisations, as competition among them may lead to greater consumer benefits. <u>Moreover, when establishing measures ensuring that arrangements are to be concluded with distributors, public authorities or third parties carrying out waste management, Member States should allow for preliminary, or similar, agreements, and require that binding agreements are concluded only within a reasonable timeframe after the authorisation.</u>		
(98) This Regulation should specify how the traceability of traders' obligations laid down in Regulation (EU) 2022/2065 of the European Parliament and of the Council^[1] ~~lays down rules on the traceability of traders, which more specifically contain obligations for~~ are to be applied to providers of online platforms allowing consumers to conclude distance contracts with producers offering packaging to consumers located in the Union in relation to the		

registers of producers established pursuant to this Regulation. For the purposes of this Regulation, any producer offering packaging, by means of distance contracts directly to consumers located in a Member State, whether established in a Member State or a third country, should be considered to be a trader as defined in Regulation (EU) 2022/2065. In order to prevent free-riding from the extended producer responsibility obligations, it should be specified how such providers of online platforms should fulfil those obligations with regard to the registers of packaging producers established pursuant to this Regulation. In that context, providers of online platforms, falling within the scope of Section 4 of Chapter III 3 of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers should obtain, **in line with Regulation (EU) 2022/2065**, from those producers, information about their compliance with the extended producer responsibility rules set out in this Regulation. The rules on traceability of traders selling packaging online are subject to the enforcement rules set out in Regulation (EU) 2022/2065.

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



(99) Member States should provide for the measures for the extended producer responsibility under this Regulation <u>and may also provide further requirements for extended producer responsibility</u> in accordance with the provisions of Directive 2008/98/EC and of this Regulation.		
(100) Member States should set up return and collection systems for packaging waste, so that they are channelled to the most appropriate waste management alternative, according to the waste hierarchy. The systems should be open for participation for all interested parties, in particular for economic operators and public authorities and be established taking into account the environment and consumer health, safety and hygiene. Return and collection systems should also be applicable for packaging of imported products under non-discriminatory provisions.		

(101) Member States should also take measures promoting recycling which meets the quality standards for the use of the recycled materials in relevant sectors. This obligation is particularly relevant in view of minimum percentage set for recycled content in plastic packaging.		
(102) It has been shown that well-functioning deposit and return systems ensure a very high collection rate, especially of beverage bottles and cans. In order to support the achievement of the separate collection target for single use plastic beverage bottles laid down in Directive (EU) 2019/904 and to further drive high collection rates of metal beverages containers, it is appropriate that Member States establish deposit and return systems. Those systems will contribute to the increase of the supply of good quality secondary raw material suitable for closed loop recycling and reduce beverage containers litter.		

(103) Deposit and return systems should be obligatory for single use plastic beverage bottles and metal beverage containers. Member States might also decide to include other packaging 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. In such situations, a Member State should be allowed, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Regulation.		
(104) Given the nature of the products and the differences in their production and distribution systems, deposit and return systems should however not be obligatory for packaging for wine, aromatised wine products, spirit drinks and milk and milk products listed in Part XVI of Annex I of the Regulation (EU) No 1308/2013 of the		

European Parliament and of the Council^[1]. Member States may establish deposit and return systems covering also other packaging. 1. ^[1] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).		
(105) All deposit and return systems <u>established after 1 January 2028</u> should comply with the <u>general</u> minimum ~~general~~ requirements laid down in this Regulation. Those requirements will help deliver greater consistency and higher return rates across Member States. They have been set based on stakeholder views, expert analysis and best practices from the existing deposit and return systems. The requirements are designed to allow for innovation while offering a level of flexibility to adapt to local circumstances.		

(106) Member States and all 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. <u>The Commission, in consultation with Member States, should develop guidelines, including best-practices, for system inter-operability in regions with high transboundary business.</u>		
(107) Member States which achieve 90 % collection rate of the targeted packaging types without a deposit and return system two consecutive calendar years preceding the entry into force of this obligation, may request not to establish a deposit and return system.		
(108) As a specific packaging waste generation prevention measure, Member States should actively encourage the re-use and refill		

solutions. They should support the establishment of systems for re-use and refill and monitor their functioning and compliance with the hygiene standards. Member States are encouraged to take also other measures, such as setting up deposit and return systems covering reusable packaging formats, using economic incentives or establishing requirements for final distributors to make available a certain percentage of other products than those covered by re-use and refill targets in reusable packaging or through refill provided that such requirements will not result in fragmentation of single market and creation of trade barriers. <u>To ease the implementation and managing systems for different packaging formats, Member States are allowed to have a different system operator for the re-use system and another operator for the system for single-use plastic beverage bottles and single use metal beverage containers. However, only one operator per system should be allowed.</u>		
(109) Directive 94/62/EC was amended by Directive (EU) 2018/852 of the European Parliament and of the Council^[1] setting out recycling targets for Member States to be achieved by 2025 and 2030. These targets and the rules for their calculation should be		

retained. 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, it should not be possible to postpone the deadlines for attaining the 2030 recycling targets. III 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).		
(110) Directive 94/62/EC requires the Commission to review the 2030 recycling targets for packaging with the view to maintaining or, if appropriate, increasing them. However, it is not yet appropriate to amend the targets set for 2030 as evidence shows that some Member States still have difficulties with meeting the existing targets. For this reason, measures encouraging manufacturers to place on the market more recyclable packaging, and thereby helping Member States to achieve the recycling targets, should be set up. In the future, more ~~recyclable packaging, coupled with greater granularity of~~ data on the packaging and packaging waste recycling flows, should be reported to the Commission. That will enable the Commission to review the targets with the possibility of		

maintaining or increasing them. In order to take account of the effect of the measures aimed at improving the packaging recyclability, the review should not take place earlier than the envisaged general evaluation of the Regulation, i.e. 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 than the current targets.		
(111) The calculation of the recycling targets should be based on the weight of packaging waste, which enters recycling. Member States should ensure the reliability and accuracy of the data gathered on recycled packaging waste. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit the administrative burden, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation, to be corrected with average loss rates occurring before the waste enters the recycling operations. Losses of materials which		

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



(112) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(113) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, they should be counted as recycled provided that they are destined for		

subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.		
(114) Member States should be enabled to take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004^[1] laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC. ^[1] Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012)2384 (OJ L 163, 20.6.2019, p. 66).		

(115) In the case of exports of packaging waste from the Union for recycling, Regulation (EC) No 1013/2006 of the European Parliament and of the Council^[1] applies. ^[1] 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).		
(116) As re-use means that no new packaging is placed on the market, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for re-use should be taken into account for the purposes of attaining the respective packaging recycling targets. Member States should be able to use this possibility to calculate adjusted level of recycling targets by taking into account maximum 5 percentage points of the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system for re-use.		

(117) Producers and producer responsibility organisations should be actively involved in providing information to end users, in particular consumers, on prevention and management of packaging waste. This information should include availability of re-use arrangements for packaging, meaning of labels displayed on packaging and other instructions on the discarding of packaging waste. **They should also inform consumers that packaging marked as compostable means that the packaging is compostable in industrially controlled conditions in bio-waste treatment facilities and not suitable for home composting. Only packaging listed in this Regulation and marked as home-compostable is suitable for home composting. No packaging is suitable for biodegradation in nature.** The producers should also inform that end users have an important role in ensuring an environmentally optimal management of packaging waste. The disclosure of information to all end users as well as reporting on packaging should make use of modern information technologies. The information should be provided either by classical means, such as posters both indoors and outdoors and social media campaigns, or by more innovative means, such as electronic access to websites provided by QR codes affixed to the packaging.



<u>(117a) For labelling of biobased plastic content,</u> ~~t~~The Communication from the Commission on an EU policy framework on bio-based, biodegradable and compostable plastics^[1] (COM 2022/682) refers to plastics as ‘biobased’ points to the raw materials, or feedstock, used for their production. While conventional plastics are made from fossil resources (oil and natural gas), biobased plastics are, <u>fully or partly</u>, –made from ~~biomass~~ <u>biobased feedstock</u> . The biomass currently originates mainly from plants grown specifically to be used as feedstock to substitute fossil resources, such as sugarcane, cereal crops, oil crops or non-food sources like wood. Other sources are organic waste and by-products, such as used cooking oil, bagasse and tall oil. ~~Plastics can be fully or partially made from biobased feedstock.~~ Biobased plastics can be both biodegradable and non-biodegradable. ^[1] https://ec.europa.eu/environment/topics/plastics/bio-based-biodegradable-and-compostable-plastics_en		

(118) For each calendar year, Member States should provide the Commission with information on attainment of recycling targets. To evaluate the effectiveness of the measures aiming to reduce the consumption of lightweight plastic carrier bags, data on consumption of very lightweight plastic carrier bags and thick plastic carrier bags should also be reported to allow for the assessment whether the consumption of these bags has increased in response to the reduction measures targeting lightweight plastic carrier bags. Providing of data on the annual consumption of very thick carrier bags should be voluntary for the Member States. In order to allow assessing whether the mandatory deposit and return systems to be set up by the Member States are effective, or whether exemptions by Member States from the obligation to set up those systems are justified, it is important to obtain information on the collection rate of such packaging through Member States reporting.		
(119) In order to establish the methodology for assessment of the at scale recyclability, Member States should also report data on recycling rates of packaging waste per packaging material and type,		

amounts of separately collected packaging waste for each packaging material, amounts of packaging waste placed on the market per material and packaging type, and installed capacities of sorting and recycling. Reporting should be done annually.		
(120) Member States should report data to the Commission electronically and provide it with a quality check report. In addition, data on recycling targets should be accompanied by a report describing measures undertaken in order to establish an effective system of quality control and traceability of packaging waste.		
(121) In order to ensure uniform conditions for the implementation of the reporting obligations, the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission so that the latter ~~to~~ can establish rules for calculation and verification of data on attainment of the recycling targets, separate collection rates of packaging covered by the deposit and return system, and data necessary for establishing the methodology for recyclability at scale assessment. This implementing act should also include rules for determination of the amount of packaging		

waste generated as well as lay down the format for reporting of data. It should also establish the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and the format for reporting of this data, as this is necessary to support the monitoring and the full implementation of the substantive requirements related to plastic carrier bags, in particular to ensure disaggregated and mandatory reporting on different categories of plastic carrier bags. This implementing act should replace Commission Decisions (EU) 2018/896^[1] and 2005/270/EC^[2]. ^[2] Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).		
(122) In order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Regulation, the Member States should establish packaging databases and ensure that they are well-functioning		
<u>Corresponding definitions in Article 3</u>		

(1.d) items designed and intended to be filled at the point of sale, provided that they perform a packaging function, <u>also referred to as ‘service packaging’</u> .		
(10) ‘producer’ means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark~~; <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the</u>		In the Portuguese legislation, responsibility falls: • In <u>non-reusable service packaging</u> - on the Manufacturer, importer or distributors of (empty) service packaging • In <u>all reusable packaging</u> (service or non service packaging) - final distributor (filler) who has packaging designed or manufactured and makes it available for the first time under its own name or trademark, or rental company, which whomever detain the information about the packaging waste (and detain privileged information about number of rotations,...), and consequently is able to supply information for 2019/665 Decision report. • In <u>non-reusable non service packaging</u> - on the importer or final distributor (filler) who has packaging designed or manufactured and makes it available for the first time under its own name or trademark At this time, report under Decision 2019/665 foresee the real number of

<u>exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>	(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country, that must have in its behalf the authorised representative for the extended producer responsibility.	rotations accomplished during a calendar year by a reusable packaging, in order to estimate the potential substitution of non-reusable packaging. If it is to be switch for the theoretical number of rotations, this rational and intention will be lost. In point (iv) shouldn't it state that the producer has to have the authorized representative in the MS?
(15) authorised appointed-representative for the extended producer responsibility' 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 VII of this Regulation;		

(50) '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;		
(51) 'deposit and return system' means a system, in which a deposit is charged to the end user when purchasing a packaged or filled product covered by this system, and redeemed to the end user when the deposit bearing packaging is returned to a collection point established for that purpose;		

(52) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a product, process or service;		
(53) 'harmonised standard' means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;		
(55) 'producer responsibility organisation' means a legal entity that financially or financially and operationally organises the fulfilment of extended producer responsibility obligations on behalf of several producers;		
(56) 'life-cycle' means the consecutive and interlinked stages that packaging goes through, ~~including the packaging waste management stage~~ , from raw material acquisition or generation from natural resources to ~~final disposal of the packaging waste management~~ .		

(59) ‘online platform’ means online platform as defined in Article 3 point (i) of Regulation (EU) 2022/2065;		
(60) ‘ waste’ means waste as defined in Article 3 point (1) of Directive 2008/98/EC, with the exception of reusable packaging conveyed to reconditioning;		
<i>Article 35</i> <i>Competent authority</i>		
1. Member States shall designate one or more competent authorities responsible for implementation and enforcement of the obligations set out in this Chapter and in Article <u>6(9)</u> , 26(1) to (10), Article 27, Article 28 and Article 29.		
2. Member States shall lay down the details of the organisation and operation of the competent authority or		

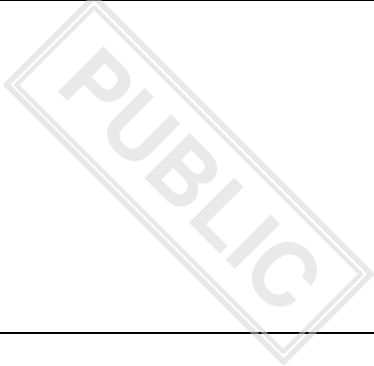
competent authorities, including administrative and procedural rules governing: (a) the registration of producers in accordance with Article 39; (b) the organisation and monitoring of reporting requirements under Article 39(7); (c) the oversight of the implementation of the extended producer responsibility obligations in accordance with Article 40; (d) the making available of information in accordance with Article 50.		
3. By [OP: Please insert the date = ~~63~~ 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.		

<i>Article 36</i> <i>Early warning report</i>		
1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in Articles 38 and 46 at the latest three years before each of the deadlines laid down in those Articles.		
2. The reports referred to in paragraph 1 shall include the following: (a) an estimation of the attainment of the targets by each Member State; (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;		

(c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.		
<i>Article 37 Waste management plans and waste prevention programmes</i>		
1. Member States shall include in the waste management plans required pursuant to Article 28 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 43, 44 and 38 and, 4546 of this Regulation.		
1.a Member States shall include in the waste prevention programmes required pursuant to Article 29 of Directive 2008/98/EC a dedicated chapter on the management of packaging and packaging waste,		

including measures taken pursuant to Articles 38 and 45 of this Regulation.		
<i>Article 39 Register of producers</i>		
1. Member States shall establish a register which shall serve to monitor compliance of producers of packaging with the requirements set out in this Chapter. The register shall provide links to other national registers of producers' websites to facilitate, in all Member States, registration of producers or ~~appointed~~ authorised representatives for the extended producer responsibility.		
2. Producers shall be obliged to register in the register referred to in paragraph 1. They shall, to that end, submit an application for registration in each Member State where they make packaging available on the market for the first time. Where a producer has appointed a producer responsibility		

organisation as referred to in Article 41(1), the obligations set out in this Article shall be met by that organisation, unless otherwise specified by the Member State in which the register is established.		
3. The obligations set out in this Article may, on ~~the producer's behalf~~ , behalf of producers by written mandate , be met by an ~~appointed~~ authorised representative for the extended producer responsibility.		
4. Producers shall not make available packaging on the market, if they or, where applicable, their ~~appointed~~ authorised representatives for the extended producer responsibility, are not registered in such Member State.		

5. The application for registration shall include the information to be provided in accordance with Part A of Annex IX. Member States may request additional information or documents if it is necessary for an efficient use of the register.		
6. Where an ~~appointed~~ authorised representative for the extended producer responsibility represents more than one producer, it shall in addition to the information to be provided pursuant to paragraph 5, provide the name and the contact details of each one of the represented producers separately.		
7. The producer or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the register, <u>at the latest by 1 June 30 April</u> ~~1 March~~ for each		

full preceding calendar year, the information set out in Part B of Annex IX.		
7a. Producers, <u>or where applicable, the producer's authorised representative, who ~~are exempted from the obligation in paragraph 7 if they~~</u> fall under the definition of micro-enterprise in accordance with the Commission Recommendation 2003/361/EC as publicly available applicable on [OP: Please insert the date = the date of entry into force of this Regulation] <u>shall report to the competent authority responsible for the register, by 30 April, for each full preceding calendar year, the information set out in Part C of Annex IX .</u>		
8. The competent authority responsible for the register: (a) shall receive applications for the registration of producers referred to in paragraph 2 via an electronic data-processing system, the details of which shall be made available on the competent authorities' website;		

(b) shall grant registrations and provide a registration number within a maximum period of ~~twelve weeks~~ <u>1-month twelve weeks</u> from the moment that all the information laid down in paragraphs 5 and 6 is provided; (c) may lay down modalities with respect to the requirements and process of registration without adding substantive requirements to the ones laid down in paragraphs 5 and 6; (d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2; (e) shall receive and monitor the reporting referred to in paragraph 7.		
9. The producer, or, where applicable, the producer's ~~appointed~~ authorised representative for the extended producer responsibility or the producer responsibility organisation shall without undue delay notify the competent authority of any changes to the information contained in the registration and of any permanent cessation of the making available on the market within the territory of the Member State of the packaging referred to in the registration. A producer shall be		As in PT the producer registration has 2 autonomous parts: a) the framework (with contacts, name, nif, contracted management entity/flow/product), and b) the declarations, which can only be reported between January 1st and March 31st of each calendar year. This obligation was introduced by the need to close the previous year's data to enable the processing of data in a timely manner for reporting to the Commission.

excluded from the register if the producer has ceased to exist as a producer.		We question whether the registration information observed here also includes these declarations, as there may be incompatibility with the provisions of Portuguese legislation, in addition to making it possible to change the quantities reported by these producers at any time, making it difficult to close values for reporting. The information referred at this point should not refer to the part of the quantities reporting.
10. Member States shall ensure that the list of registered producers shall be publicly available <u>free of charge</u>. However, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved. <u>The list of registered producers shall be machine readable, sortable and searchable, respecting open standards for third party use.</u> ~~Where the information in the register of producers is not publicly accessible, Member States shall ensure that providers of online platforms allowing consumers to~~		

~~conclude distance contracts with producers are granted access, free of charge, to the information in the register.~~		
11. The Commission shall, <u>by no later than three years after the entry into force of this Regulation</u> ~~<i>[OP: please insert the date X after the date of entry into force of this Regulation]</i>~~, adopt implementing acts establishing the format for registration in, and reporting to, the register and specifying the granularity of data to be reported and the packaging types and material categories to be covered by the reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).	PUBLIC	Our position depends on when the obligation to initiate registration by the Member States comes into force. In article 39, concerning the registration of producers, there is no specification of the deadline for the obligation of registration by the MS, nor was it mentioned elsewhere in the regulation. Article 65 says: Article 65 Entry into force and application This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States. If the obligation to make the registration system available also comes into force 12 months after the publication of the

		Regulation, it makes no sense for the rules to be published until 3 years later. In addition, an adaptation period must also be foreseen between the publication of these rules and the obligation of the MS to make the register available, so that it corresponds to the specified granularity and formats in those implementing acts.
<i>Article 40 Extended Producer Responsibility</i>		
1. Producers of packaging shall have extended producer responsibility under the schemes established in accordance with Articles 8 and 8a of Directive 2008/98/EC and with this Section for the packaging that they make available on the market for the first time within the territory of a Member State.		
<u>1a. The financial contributions paid by the producer shall cover the costs of labelling waste receptacles for the</u>		

<u>collection of packaging waste as referred to in Article 12.</u>		
2. A producer shall appoint, by written mandate, an ~~appointed~~ authorised representative for the extended producer responsibility in each Member State other than the Member State where it is established where it makes packaging available for the first time.		
3. For the purpose of compliance with Article 30, paragraph 1, points (d) and (e), of Regulation (EU) 2022/2065, ~~P~~ providers of online platforms, falling within the scope of Section 4 of Chapter 3 III of Regulation (EU) 2022/2065, allowing consumers to conclude distance contracts with producers shall obtain the following information from producers offering packaging to consumers located in the Union: (a) information on the registration of the producers referred to in Article 39 in the Member State where the consumer is located		

and the registration number(s) of the producer in that register; (b) a self-certification by the producer committing to only offer packaging with regard to which the extended producer responsibility requirements referred to in paragraphs 1 and 2 of this article are complied with in the Member State where the consumer is located.		
<u>3a</u> <u>The provider of the online platform allowing consumers to conclude distance contracts with traders shall verify the information in paragraph 3 point (a) with the publicly available registration list referred to in Article 39(10), and where the provider obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 3 obtained from the trader concerned is inaccurate, incomplete or not up-to-date, the provider shall request the trader to remedy that situation without delay or within the period set by national law. Where the trader fails to correct or complete that information, the provider of the online platform shall swiftly suspend the provision of its</u>		

<u>service to that trader until the request has been fully complied with.</u>		
<i>Article 41 Producer Responsibility Organisation</i>		
1. Producers may entrust a producer responsibility organisation authorised in accordance with Article 42 to carry out the extended producer responsibility obligations on their behalf. Member States may adopt measures to make the entrustment of a producer responsibility organisation mandatory.		
2. Where, in the territory of a Member State, multiple producer responsibility organisations are authorised to fulfil extended producer responsibility obligations on behalf of producers, the Member State shall ensure that the producer responsibility organisations <u>and producers that have not entrusted a producer responsibility organisation</u> , when taken together, cover the whole territory of the Member State		

as regards the activities in accordance with Articles 42(3), 43 and 44. Member States shall entrust the competent authority, or appoint an independent third party, to oversee that producer responsibility organisations fulfil their obligations in a coordinated manner.	PUBLIC	
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 ~~appointed~~ authorised representatives.		
4. In addition to the information referred to in Article 8a(3), point (e), of Directive 2008/98/EC, producer responsibility organisations shall publish on their websites, at least every year ~~and subject to commercial and industrial confidentiality,~~ information on the amount of packaging made available on the market for the first time in the territory of a Member State and on the levels of recovered and recycled materials in		

relation to the amount of packaging for which they have been performing producer responsibility obligations.		
<i>Article 42 Authorisation on fulfilment of extended producer responsibility</i>		
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 State shall in its measures laying down administrative and procedural rules referred to in Article 35, establish the requirements and details of the authorisation procedure, which can be different for either individual or collective fulfilment of the extended producer responsibility, and the modalities for verifying compliance, including the		

information to be provided by producers or producers 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~~may be done by a competent authority or an independent expert who shall issue a verification report on its result. The independent expert shall be independent of the competent authority and of the producer responsibility organisations or the producers authorised for individual fulfilment.		
3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that: (a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with; (b) the measures put in place by the producer or producer responsibility organisation are sufficient to allow for the		

return or collection in accordance with Article 43(1) and (2) and Article 44, free of charge for end users, with a frequency proportionate to the area and volume covered, of packaging waste with regard to the amount and types 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, including preliminary arrangements, to that end are in place with distributors, public authorities or third parties carrying out waste management on their behalf; (d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling; (e) the requirement laid down in paragraph 6 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 in particular if the producer or producer responsibility organisation no longer fulfils the requirements with regard to the organisation of the treatment of packaging waste or fails in relation to reporting to the competent authority or in relation to the notification of any changes that concern the terms of the authorisation, or has ceased operations.		
6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide an adequate guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in case		

of non-compliance with the extended producer responsibility obligations, including in case of permanent cessation of its operations or insolvency. That guarantee may take the form of a recycling insurance or a blocked bank account or participation by the ~~producer~~ producer in the producer responsibility organisation. Member States may specify additional requirements on this guarantee.		
<u>Annex IX</u> <u>INFORMATION FOR REGISTRATION AND REPORTING TO THE REGISTER REFERRED TO IN ARTICLE 39</u>		
A. Information to be submitted upon registration		
1. The information to be submitted by the producer or its authorised representative for EPR shall include:		

(a) name and brand names (if available) under which the producer operates in the Member State and address of the producer including postal code and place, street and number, country, telephone, if any, web address and e-mail address, indicating a single contact point; (b) national identification code of the producer, including its trade register number or equivalent official registration number and the European or national tax identification number; (c) quantities by weight of types of packaging as set out in Table 1 of Annex II, that the producer makes available in the Member State for the first time; (d) a declaration on how the producer meets its responsibilities under Article 40.		
2. Where a producer responsibility organisation is entrusted to carry out the EPR obligations, the information to be provided shall include the name and contact details, including postal code and place, street and number, country, telephone, web address and e-mail address and the national identification code of the producer		

responsibility organisation, including the trade register number or an equivalent official registration number and the European or national tax identification number of the producer responsibility organisation, and the represented producer's mandate, a statement by the producer or, where applicable, producer's authorised representative for the EPR or the producer responsibility organisation, stating that the information provided is true.		
3. In the case of an authorisation in accordance with Article 41(1), the producer responsibility organisation shall, in addition to the information required under point 1 of Part A of this Annex, provide: (a) the names and contact details, including postal codes and places, streets and numbers, countries, telephones, web addresses and e-mail addresses of the producers represented; (b) the mandate of each represented producer, where applicable; (c) where the producer responsibility organisation represents more than one producer, it shall indicate separately how each one of the		

represented producers meets the responsibilities set out in Article 40.		
B. Information to be submitted for reporting		
(a) national identification code of the producer; (b) reporting period; (c) quantities by weight of packaging types as set out in Table 1 in Annex II that the producer makes available in the Member State for the first time; (d) quantities, by weight, per material of packaging waste separately collected within the Member State as set out in Table 1 in Annex II; (e) quantities, by weight, per material and type of packaging waste recycled, recovered and disposed of within the Member State or shipped within or outside the Union as set out in Table 4 in Annex XII; (f) quantities, by weight, of separately collected single use plastic beverage bottles with the capacity of up to three litres and single		

use metal beverage containers with a capacity of up to three litres, as set out in Table 6 of Annex XII;				PUBLIC	
(g) arrangements to ensure the producer responsibility regarding the waste from packaging placed on the market.					
<u>C. Information to be submitted for reporting for micro-enterprises</u>					
<u>a. national identification code of the producer;</u>					
<u>b. reporting period;</u>					
<u>c. information on packaging types set out in Table 1.</u>					
<u>d. arrangements to ensure the producer responsibility regarding packaging placed on the market</u>					
Table 1					
	Quantities by weight made available in member state	Quantities by weight collected	Quantities by weight recycled		

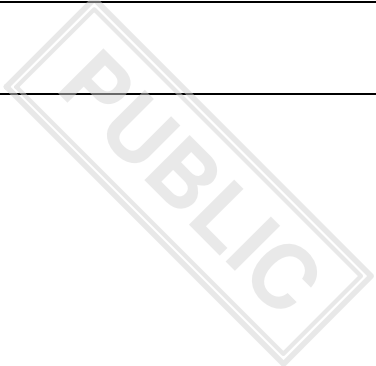
Glass				PUBLIC	
Plastic					
Paper/cardboard (including composite)					
Ferrous metal					
Aluminium					
Wood					
Other					
Total					
Deposit return systems and waste collection					
<i>Article 43 Return and collection systems</i>					
1. By 2030, Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users, <u>in a given year,</u> in					

order to ensure that it is treated in accordance with Articles 4 and 13 of Directive 2008/98/EC, and to facilitate its preparation for re-use and high-quality recycling. <u>Packaging complying with Design for Recycling criteria as defined in delegated acts adopted under Article 6(4) shall be collected for recycling. Incineration and landfill of such packaging shall not be allowed.</u>		
2. Member States may allow derogations from paragraph 1 provided that collecting packaging or fractions of packaging waste together or together with other waste does not affect the potential of such packaging or fractions of packaging waste to undergo preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of Directive 2008/98/EC and generates output from those operations which is of comparable quality to that achieved through separate collection.		

3. The systems referred to in paragraph 1 shall: (a) be open to the participation of the economic operators of the sectors concerned, the competent public authorities and third parties carrying out waste management on their behalf; (b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities, and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas; (c) be open to imported products under non-discriminatory conditions with regard to the detailed arrangements and any tariffs imposed for access to the systems and any other conditions, and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		

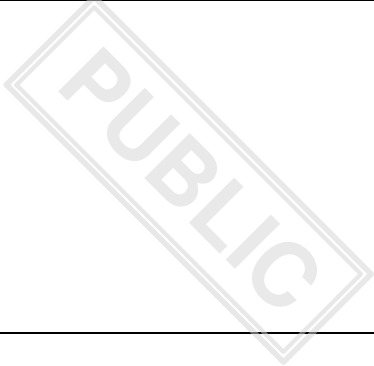
4. Member States shall take measures to promote recycling of packaging waste which meets the quality standards for the use of recycled materials in the relevant sectors.		
~~5. By way of derogation from the separate waste collection obligation in paragraph 3, certain types of packaging waste may be collected together where such collection does not affect their potential to undergo recycling operations and results in output from those operations which is of comparable quality to that achieved through separate collection.~~		
<i>Article 44 Deposit and return systems</i>		
1. By 1 January 2029, Member States shall take the necessary measures to ensure that deposit and return systems are set		We do not consider necessary to introduce a minimum volume. Introducing a minimum volume may cause producers who do not want to be included in a DRS to change the

~~up for the~~ <u>separate</u> collection of at least 90% per year by weight of the following packaging formats made available on the market for the first time in that Member State in a given calendar year (a) single use plastic beverage bottles with the <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres; and (b) single use metal beverage containers with a <u>minimum</u> capacity of <u>0,1 litres</u> up to three litres.		packaging sold so that the volume does not fit the proposed target. Although we don't oppose, we alert for coherence with SUP Directive.
2. In order to achieve the targets referred to in paragraph 1, Member States shall <u>take the necessary measures to ensure that establish</u> deposit return systems <u>are set up</u> for the relevant packaging formats referred to in paragraph 1. Such obligation ~~The obligation laid down in paragraph 1~~ does not apply to packaging for: (a) wine, aromatised wine products, and spirit drinks; (b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.		

3. ~~Without prejudice to paragraph 1 of this Article, a Member States will~~ may be exempted from the obligation under paragraph ~~42~~ under the following conditions: (a) the rate of separate collection as required under Article 43(3) and (4) of the respective packaging format as reported to the Commission under Article 50(1) point (c) is above 90 % by weight of such packaging ~~placed~~ made available on the market for the first time on the territory of that Member State in the calendar years 2026 and 2027. Where such reporting has not yet been submitted to the Commission, the Member State shall provide a reasoned justification, based on validated national data, and description of the implemented measures, that the conditions for the exemption set out in this paragraph are fulfilled; (b) at the latest 24 months before the deadline laid down in paragraph 1 of this Article, the Member State notifies the Commission of its request for exemption and submits an implementation plan showing a strategy with concrete actions, including timeline that ensure the achievement of		

the 90 % separate collection rate by weight of the packaging referred to in paragraph 1.		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point (be) of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
5. If the separate collection rate of the packaging referred to in paragraph 1 in a Member State concerned decreases and remains below 90 % by weight of a given packaging format placed on the market for three consecutive calendar years, the Commission shall notify the Member State concerned that the exemption no longer applies. The deposit and return system shall be established by 1 January in the second calendar year following the year in which the		

Commission notified the Member State concerned that the exemption no longer applies.		
6. Member States shall endeavour to establish and maintain deposit and return systems in particular for single use glass beverage bottles, 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.		
7. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum requirements set out in this Article <u>and the possibility to include packaging for other products.</u>		We agree with the proposed change.

8. Member States shall ensure that return points and opportunities for reusable packaging with a similar purpose and format to those established under paragraph 1 are not less convenient for end users than opportunities to return single-use packaging to a deposit and return system.		
9. By 1 January 2028, Member States shall ensure that all deposit and return systems, including those established under paragraph 5 <u>6</u>, meet the minimum criteria listed in Annex X.		
<u>9a. 48 months after the entry into force of this Regulation, the Commission shall publish guidelines, in consultation with Member States, on deposit and return systems inter-operability, including examples of best-practices, for regions with high transboundary business.</u>		We agree with the proposed change.
<u>ANNEX X</u>		

<u>MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS</u>		
For the purpose of this Annex, the following definition shall apply: ‘system operator’ means any natural or legal person, who is entrusted with a responsibility to establish or operate a deposit and return system in a Member State.		
Minimum general requirements for deposit and return systems Member States shall ensure that the deposit and return systems established on their territories meet the following minimum requirements:		
(a) a single system operator is established or licenced. When deposit and return systems are established for specific packaging formats for reuse or single use, Member States may establish ~~more than one single~~ a different system operator per system;		
(b) the governance of the system allows for equal access and fair conditions of all economic operators wishing to become part of the		

system, provided they make available on the market packaging that belongs to a packaging type or category included in the system;		
(c) control procedures and reporting systems are set up allowing the system operator to obtain data on the collection of packaging covered by the deposit and return system;		
(d) a minimum deposit level is established, which is sufficient to achieve the required collection rates; <u>(da) a minimum deposit to be charged at the point of sale,</u>		
(e) minimum requirements on the financial capacity of the system operator are established allowing the system operator to perform its functions;		
(f) system operator is a non-profit and independent legal entity		
(g) system operators performs exclusively roles arising from the rules of this Regulation, and any additional roles related to the coordination and operation of the deposit and return system as established by the Member States;		

(h) system operators coordinates the functioning of the deposit and return system;		
(i) system operator keeps in writing: (i) a statute establishing its internal organization; (ii) evidence of its funding system; (iii) a statement proving the compliance of the system with the requirements laid down in the Regulation, as well as any additional requirements established in the Member State in which it operates;		
(j) a sufficient amount ~~at least 1%~~ of the ~~annual~~ turnover of the system operator (excluding deposits) are used for public awareness campaigns on the information on management of packaging waste;		
(k) system operators must provide any information requested by the competent authorities of a Member State, in which the system operates, for the purposes of monitoring compliance with the requirements in this Annex;		
(l) Member States shall ensure that final distributors are obligated to accept the deposit bearing packaging and provide end users with		

redeemed deposits. ~~When implementing this obligation, Member States shall take into account at least the following factors:~~ ~~(i) sales surface area allowing end users to return deposit bearing packaging in their according to the local conditions;~~ ~~(ii) buying and selling habits and traditions;~~ ~~(iii) food safety;~~ ~~(iv) health and safety;~~ ~~(v) public health;~~		
~~(m) deposit is exempted from sales taxes;~~		
(n) end user is able to return the deposit bearing packaging without the need to purchase any goods; deposit shall be redeemed to the consumer;		
(o) all deposit bearing packaging is clearly labelled, so that the end users can easily identify the need to return such packaging;		
(p) fees are transparent;		
~~(q) all packaging covered by the deposit and return system.~~		

(r) In addition to the minimum requirements, Member States may set additional requirements, as appropriate, in order to ensure the fulfilment of the objectives of this Regulation, in particular to increase the purity of the collected packaging waste, reduce litter or promote other circular economy objectives.		
~~Member States with regions with high transboundary business shall ensure that the functioning of the DRS allows for the interoperability of DRS and that the implementation of the minimum requirements and of any additional requirements does not result in discrimination of business and consumers and market distortions.~~		
Member States are allowed to create exemptions from charging a deposit for a deposit bearing packaging in the context of consumption in hospitality premises provided that a deposit bearing packaging is opened, the product is consumed, and the empty deposit bearing packaging is returned within the premises.		
<i>Article 46 Recycling targets and promotion of recycling</i>		

1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory:

- (a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated;
- (b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:
 - (i) 50 % of plastic;
 - (ii) 25 % of wood;
 - (iii) 70 % of ferrous metals;
 - (iv) 50 % of aluminium;
 - (v) 70 % of glass;
 - (vi) 75 % of paper and cardboard;
- (c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated;
- (d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:
 - (i) 55 % of plastic;
 - (ii) 30 % of wood;
 - (iii) 80 % of ferrous metals;
 - (iv) 60 % of aluminium;



(v) 75 % of glass; (vi) 85 % of paper and cardboard.		
2. Without prejudice to paragraph 1, point (a) a Member State may postpone the deadlines set out in paragraph 1, points (b)(i) to (vi), by up to 5 years, under the following conditions: (a) the derogation from the targets in the period of postponement is limited to a maximum of 15 percentage points from a single target or divided between two targets, (b) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target is not reduced below 30 %, (c) as a result of the derogation from the targets in the period of postponement, the recycling rate for a single target referred to in paragraph 1, points (b)(v) or (vi) of paragraph 1 is not reduced below 60 %, and (d) at the latest 24 months before the respective deadline laid down in paragraph 1, point (b), of this Article, the Member State notifies the Commission of its intention to postpone the deadline and submits to the Commission an implementation		

plan in accordance with Annex XI to this Regulation, which may be combined with an implementation plan submitted pursuant to Article 11(3), point (b), of Directive 2008/98/EC, to comply with the targets in paragraph 1(c) and (d)(i) to (vi).		
3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex XI. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.		
4. By <i>[OP: Please insert the date = 8 years after the date of entry into force of this Regulation]</i> , the Commission shall review the targets laid down in paragraph 1, points (c) and (d), of with a view to increasing them or setting further		

targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if the Commission finds it appropriate, by a legislative proposal.	PUBLIC	
5. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by: (a) improving market conditions for such materials; (b) reviewing existing rules preventing the use of such materials.		
6. A Member State may, while observing the general rules laid down in the Treaty and complying with the provisions set out in this Regulation, adopt provisions which go beyond the minimum ~~targets~~ <u>requirements</u> set out in this Article.		

<i>Article 47 Rules on the calculation of the attainment of the recycling targets</i>		
1. The calculation whether the targets laid down in Article 46(1) have been attained shall be carried out in accordance with the rules laid down in this Article.		
2. Member States shall calculate the weight of packaging waste generated in a given calendar year. The calculation of packaging waste generated in a Member State must be exhaustive.		
3. Member States shall calculate the weight of packaging waste recycled in a given calendar year. The weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations		

to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.		
4. Composite packaging and other packaging composed of more than one material shall be calculated and reported per material contained in the packaging. Member States may derogate from this requirement where a given material constitutes an insignificant part of the packaging unit, and in no case more than 5 % of the total mass of the packaging unit.		
5. ~~Packaging waste exported out of the Union shall be calculated as recycled 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.		
6. For the purposes of paragraph 3, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first sub-paragraph of this ~~Article~~paragraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that: (a) such output waste is subsequently recycled; (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.		
7. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that		

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

9. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted as recycled.		
10. Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in Commission Implementing Decision (EU) 2019/1004.		

11. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted as recycled by the Member State in which that packaging waste was collected.		
12. Packaging waste exported from the Union shall be counted as recycled by the Member State in which it was collected only if the requirements set out in paragraph 3 are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation, including that the treatment of packaging waste outside the Union took place under conditions that are broadly equivalent to the requirements of the relevant Union environmental law.		
<i>Article 48 Rules on the calculation of the attainment of the recycling targets by including re-use</i>		

1. A Member State may decide to attain an adjusted level of the targets referred to Article 46(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and re-used as part of a system for re-use of packaging. The adjusted level shall be calculated by subtracting: (a) from the targets laid down in Article 46(1), points (a) and (c), the share of the reusable sales packaging referred to in the first subparagraph in all sales packaging placed on the market, and (b) from the targets laid down in Article 46(1), points (b) and (d), the share of the reusable sales packaging referred to in the first subparagraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market. No more than five percentage points of the average share of reusable sales packaging shall be taken into account for the calculation of the respective adjusted target level.		

2. A Member State may take into account the amounts of wooden packaging that is repaired for re-use in the calculation of the targets laid down in Article 46(1), point (a), Article 46(1), point (b)(ii), Article 46(1), point (c), and Article 46(1), point (d)(ii).		
<u>ANNEX XI</u> <u>IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO</u> <u>POINT (D) OF ARTICLE 46(2)</u>		
The implementation plan to be submitted pursuant to Article 46(2), point (d), shall contain the following:		
(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;		

(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;		
(c) reasons for which the Member State considers that it might not be able to attain the relevant target laid down in point (b) of Article 46(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;		
(d) measures necessary to attain the targets set out in points (b) of Article 46(1) of this Regulation that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;		
(e) a timetable for the implementation of the measures identified in point 4(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;		

(f) information on funding for waste management in line with the polluter-pays principle;		
(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.		
<i>Article 50 Reporting to the Commission</i>		
1. Member States shall report to the Commission for each calendar year the following data: (a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging, (b) the annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category <u>as listed in table 5 of Annex XII</u>; (c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1), Member States may provide data on the annual consumption of very thick plastic carrier bags per person		

2. Member States shall report for ~~each packaging material and type as listed in Table 1 of Annex IX~~ for each calendar year data on: (a) the amounts of packaging made available ~~placed~~ on the market for the first time on the territory of that Member State for each packaging ~~type~~ category and material as listed in Table 1 of Annex ~~IX~~; (b) amounts of separately collected packaging waste for each packaging material as listed in Table ~~13~~ in the Annex ~~XII~~; (c) the recycling rates of packaging waste as listed in Table 4 of Annex XII; (d) installed capacities for sorting and recycling for each packaging type and material as listed in Table 1 of Annex II.		
3. The first reporting period shall concern: (a) with respect to obligations laid down in paragraph 1, points a and b, and paragraph 2, the 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 1, point c, the calendar year starting from 1 January 2028.		Regarding subparagraph b), we prefer it to be related to the publication of the act, and not to a specific date.

4. Member States shall make the data referred to in paragraphs 1 and 2 available electronically within 19 months after the end of the reporting year for which the data are collected. They shall report the data electronically within 19 months of the end of the reporting year for which the data are collected in the format established by the Commission in accordance with paragraph 7.		
5. The data made available by Member States in accordance with this Article shall be accompanied by a quality check report. That quality check report shall be presented in the format established by the Commission in accordance with paragraph 7.		
6. The data made available by Member States in accordance with this Article shall be accompanied by a report on the measures taken pursuant to Article 47(~~58~~) and (~~8~~ <u>12</u>), including detailed information about the average loss rates where applicable.		

7. The Commission shall, by [<i>OP: Please insert the date = ~~24~~12 months after the date of entry into force of this Regulation</i>], adopt implementing acts establishing: (a) rules for the calculation, verification and reporting of data in accordance with paragraphs 1, points (a) and (c), and 2, including the methodology for determining packaging waste generated, and the format for the reporting; (b) the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person referred to in paragraph 1, point (b), and the format for their reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).		
8. Member States shall require that all economic operators making packaging available in the Member States provide competent authorities with accurate and reliable data allowing Member States to fulfil their reporting obligations under this Article, taking into account, where relevant,		

particular problems faced ~~bying~~ small and medium-sized enterprises with regard to the provision of detailed data.		
<i>Article 51 Packaging databases</i>		
1. By <i>[OP: Please insert the date = xx months after the date of entry into force of this Regulation]</i> , the Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis, to enable the reporting to the Commission.		
2. The databases referred to in paragraph 1 shall include the following: (a) information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States; (b) ~~information on the toxicity or danger of packaging materials and components used for their manufacture;~~		

(c) the data listed in Annex XII.		
<u>ANNEX XII</u> <u>DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE</u> <u>(IN ACCORDANCE WITH TABLES 1 TO 4)</u>		
1. For sales, grouped and transport packaging: (a) quantities, for each packaging categories of packaging generated within the Member State (produced + imported + stored - exported) (Table 1); (b) quantities reused (Table 2).		
2. For sales, grouped and transport packaging waste: (a) Quantities for separately collected packaging waste per material (Table 3) (b) Quantities recovered and disposed of, recycled and quantities recovered for each packaging type (Table 4).		

(c) The annual consumption of very lightweight plastic carrier bags, lightweight plastic carrier bags and thick plastic carrier bags per person, separately for each category, as laid down in Article 50(1) point (b) (Table 5) (d) Separate collection rate of the packaging formats covered by the deposit return systems, as laid down in Article 44(1) (Table 6)						PUBLIC		
TABLE 1 Quantity of packaging (sales, grouped and transport) generated within the national territory								
	Tonnage produced	- Tonnage exported	+ Tonnage imported	+ Tonnage stored	= Total			
Glass								
Plastic								
Paper/cardboard (including composite)								
Ferrous metal								

Aluminium						PUBLIC	
Wood							
Other							
Total							
TABLE 2 Quantity of <u>total</u> sales packaging (sales, grouped and transport) reused within the national territory							
	Tonnage of packaging placed made available on the market for the first time on the territory of that Member State	Reusable packaging		Reusable sales packaging			
		tonnage	Percentage of total reusable packaging	Tonnage	Percentage of total reusable sales packaging		
Glass							
Plastic including							

g composi te							
Paper/ca rdboard (includin g composi te packagin g)							
Ferrous metal (includin g tinplate and composi te packagin g)							
Alumini um							
Wood							
Other							
total							

TABLE 3 <u>Quantity of generated packaging waste within the national territory and Quantity of separately collected packaging waste per material (sales, grouped and transport) generated within the national territory</u>						
Packaging material	Packaging waste generation (t)	From Packaging waste separately collected (t)				
Glass						
Plastic (rigid and flexible)						
Paper/cardboard (including composite)						
Metals (Ferrous metal and aluminium, including composite)						
Wood						
Other						
Total						

									PUBLIC				
TABLE 4 Quantity of packaging waste recovered and disposed of within the national territory <u>and exported</u>													
Packaging		Tot al ton nag e dis pose d of outs ide nati onal terr itor y	Tot al ton nag e dis pose d of	Tot al tonn age reco vere d and dis pose d of	Quantity recycled		Quantity recovered						
					Ton nag e	Perc enta ge	Ton nag e	Perc enta ge					
Within the national territory													
Glass, including composite													

Plastic, PET	Rigid										
Plastic, PP											
Packaging		Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered				
					Tonnage	Percentage	Tonnage	Percentage			
Plastic, HD PE and PP											
Plastic, PS											

Plastic, HDPE											
Plastic, PVC											
Plastic, PC											
Plastic, EPS											
Plastic, XPS											
Plastic, PET	Flexible										
Packaging		Total tonnage disposed of outside national	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered				
					Tonnage	Percentage	Tonnage	Percentage			

		territory								PUBLIC	
Plastic, PP											
Plastic, PE											
Plastic, multilayer											
Paper/cardboard (non-composite)											
Composite Paper/cardboard											
Ferrous metal (including tinplate and composite packaging of which the											

Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered		
				Tonnage	Percentage	Tonnage	Percentage	
majority is steel)								
Aluminium (including composite packaging of which the majority is aluminium								
Wood								
Textile								
Ceramic, porcelain or stoneware								

PUBLIC

Other									PUBLIC		
Total packaging											
Packaging	Total tonnage disposed of outside national territory	Total tonnage disposed of	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered					
				Tonnage	Percentage	Tonnage	Percentage				
waste											
Table 5 Quantity of very lightweight plastic carrier bags, lightweight plastic carrier bags, thick plastic carrier bags, and very thick plastic carrier bags per person, consumed within the national territory											

	Plastic carrier bags consumed within the national territory		PUBLIC	
very lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 15 microns</i>	Number per person	Tonnes per person		
lightweight plastic carrier bags <i>plastic carrier bags with a wall thickness below 50 microns</i>				
thick plastic carrier bags <i>plastic carrier bags with a wall thickness between 50 and 99 microns</i>				
Table 6 Separate collection rate of packaging formats covered under the deposit return systems, as laid down in Article 44(1)				
	Tonnes of packaging placed on the market for the first time within the national territory (t)	Separately collected within the national territory by the deposit and return scheme (t)		

Single use plastic beverage bottles with the capacity of up to 3 litres			PUBLIC	
Single use metal beverage containers with a capacity of up to 3 litres				
Cluster 8 Remaining obligations of economic operators				
Recitals corresponding cluster 8				
(39) It should be recalled that all ~~compostable packaging constituting a food contact material~~ is packaging in contact with food, including compostable packaging, has to meet the requirements ~~set out in~~ <u>under the scope of set out in</u> Regulation (EC) No 1935/2004 on materials and articles intended to <u>be brought come</u> into contact with food <u>or already in contact with food</u>. Where appropriate, the documentation and information required according to the legislation on food contact				

materials can also be used as part of the information and documentation required in this Regulation.		
(51) Economic operators should ensure that packaging complies with the requirements under this Regulation. They should take appropriate measures to ensure such compliance in relation to their respective roles in the supply chain in order to ensure the free movement of packaging in the internal market and to improve its sustainability.		
(51a) 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 provides common principles and reference provisions for the drawing up of legislation harmonising the conditions for the marketing of products. In order to ensure consistency with other sectoral product legislation and to simplify application and enforcement, this regulation should be aligned to that Decision, unless		

specific circumstances require a different solution <u>in this Regulation</u>. Therefore, ~~the current Regulation should have recourse to that~~ Decision <u>768/2008/EC should be used</u> as regards certain definitions, general obligations of economic operators, presumption of conformity, ~~provisions regarding~~ formal objections against harmonised standards, ~~and~~ notification procedures, and the provisions concerning procedures dealing with products presenting a risk, <u>when not otherwise specified in this Regulation</u>.		
(52) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure provided for under this Regulation. Such conformity assessment should therefore remain solely the obligation of the manufacturer.		
(53) It should be ensured that suppliers of packaging or packaging materials provide the manufacturer with all the		

information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials. That information and documentation should be provided in either paper or electronic form.		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market ~~complies~~^{ies} with this Regulation, whether imported as ~~self-standing~~ standalone packaging or ~~in~~ as part of in association with a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		

(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those		

authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		

Definitions article 3 corresponding :		
(6) 'making available on the market' means any supply of a packaging for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;	'making available on the market' means any supply of a packaging or packaged product , 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;	Following the presentation made by PRES at the meeting on 22 and 23/06/2023, the examples presented that intended to clarify the definition of producer were analysed. However, we still have doubts regarding this definition, namely whether the person who has to fulfill the obligations related to the EPR is the one who places the packaged product on the market or the one who places the empty package. In the case of Portugal, the obligation is on whoever places the packaged product on the market for the first time. We have the exception of service packaging (packaging intended to be filled in the point of sale), for which it is the manufacturer or importer of these packaging (ie who places the empty packaging on the market). We propose asking PRES to clarify specifically: Example: Between Member States (other empty packaging to be filled in other Member State) Company A in Member State X manufactures pizza boxes under own name or trademark and sells to Company B in Member State Y who

		sells the empty pizza boxes to pizza manufacturer Company C in Member State Y, that fills that pizza boxes and puts them on the market in Member State Y. Which one should be? (a) Company C = Producer in MS Y (ii) (in current Portuguese legislation, this is the one applied) , or (b) Company B = Producer in MS Y (ii)
(7) 'placing on the market' means the first making available of a packaging on the Union market;	placing on the market' means the first making available of a packaging or packaged product , on the Union market;	
(8) 'economic operator' means manufacturers, suppliers of packaging, importers, distributors, authorised representative , final distributors, and fulfilment service providers;		

(9) 'manufacturer' means any natural or legal person who manufactures packaging under its own name or trademark, or has packaging designed or manufactured <u>under its own name or trademark</u> ~~and uses that packaging for the containment, protection, handling, delivery or presentation of products under its own name or trademark, without it having been placed on the market previously;~~		We agree
(10) 'producer' means any manufacturer, importer or distributor, who, irrespective of the selling technique used, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU, ~~makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark;~~ <u>alternatively, is one of the following:</u> <u>(i) is established in a Member State and manufactures service packaging or reusable packaging under its own name or trademark, or has service packaging or reusable packaging designed or manufactured and makes it</u>		In the Portuguese legislation, responsibility falls: • In <u>non-reusable service packaging</u> - on the Manufacturer, importer or distributors of (empty) service packaging • In <u>all reusable packaging</u> (service or non service packaging) - final distributor (filler) who has packaging designed or manufactured and makes it available for the first time under its own name or trademark, or rental company, which whomever detain the information about the packaging waste (and detain privileged information about number of rotations,...), and consequently is able to supply information for 2019/665 Decision report. • In <u>non-reusable non service packaging</u> - on the importer or final distributor (filler) who has packaging designed or manufactured and makes it available for the first time under its own name or trademark

<u>available for the first time under its own name or trademark, within the territory of that Member State;</u> <u>(ii) is established in a Member State and makes available a packaged product under its own name or trademark for the first time within the territory of that Member State, with the exceptions of service packaging and reusable packaging where (i) applies;</u> <u>(iii) is established in a Member State and makes available packaging or packaged products for the first time in this Member State, from a third country or from another Member State;</u> <u>(iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country.</u>	 (iv) makes packaging or packaged products available for the first time, by means of distance contracts directly to end-users in a Member State, and is established in another Member State or in a third country, that must have in its behalf the authorised representative for the extended producer responsibility.	At this time, report under Decision 2019/665 foresees the real number of rotations accomplished during a calendar year by a reusable packaging, in order to estimate the potential substitution of non-reusable packaging. If this is to be changed for the theoretical number of rotations, this rational and intention will be lost. In point (iv) shouldn't it state that the producer has to have the authorized representative in the MS?
(11) 'supplier' means any natural or legal person who supplies packaging or packaging material to a manufacturer ~~who uses this packaging for the containment, protection,~~		

<u>handling, delivery or presentation of products under its own name or trademark;</u>		
(12) 'importer' means any natural or legal person established within the Union who places packaging, or a packaged product, from a third country on the Union market;		
(13) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or importer, who makes a packaging, or a packaged product, available on the market;		
(14) 'authorised representative' means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on its behalf in		

relation to specified tasks with regard to the manufacturer's obligations under this Regulation;		
<i>Article 13 Obligations of manufacturers</i>		
1. When placing packaging on the market, manufacturers shall ensure that the packaging complies with the following: (a) it has been designed and manufactured in accordance with the applicable requirements set out in Articles 5 to 10; (b) it 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 VII.		

Where compliance of packaging with the applicable requirements has been demonstrated by the relevant conformity assessment procedure referred to in Article 33, manufacturers shall draw up an EU declaration of conformity in accordance with Article 34.		
3. Manufacturers shall keep the technical documentation referred to in Annex VII and the EU declaration of conformity for ~~10~~ 5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market.</u>		
4. Manufacturers shall ensure that procedures are in place for series production of packaging to remain in conformity with this Regulation. Changes in packaging design or in characteristics, as well as changes in harmonised standards, common technical specifications or other technical specifications by reference to which conformity is declared or by application of which its conformity is verified, shall be adequately taken into account by manufacturers. In case the manufacturers finds that the packaging's conformity may be		

affected, they shall carry out a re-assessment in accordance with the conformity assessment procedure specified in Article 33 and Annex VII, or have it carried out on their behalf.		
5. Manufacturers shall ensure that the packaging bears a type, batch or serial number or other element allowing its identification or, where the size or nature of the packaging does not allow so, that the required information is provided in a document accompanying the packaged product.		
6. Manufacturers shall indicate on the packaging or on a QR code or another data carrier their name, registered trade name or registered trade mark as well as the postal address, and where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided as part of the information through the QR code or other type of digital data carrier referred to in Article 11(2) or the data		

carrier referred to in Article 11(4) or in a document accompanying the packaged product. The postal address shall indicate a single point at which the manufacturer can be contacted. Such information shall be clear, understandable and legible.		
7. Manufacturers shall ensure that information provided in accordance with paragraphs 5 and 6 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
8. Manufacturers who consider or have reason to believe that packaging which they have placed on the market 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.		

9. Manufacturers shall, further to a reasoned request from a national authority, provide all the information and documentation necessary to demonstrate the conformity of the packaging, including the technical documentation in a language, or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~either paper or electronic form~~ and, on request, in paper form. The relevant documents shall be made available within 10 days of receipt of the request from the national authority. Manufacturers shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 10.		
<i>Article 14 Information obligations of suppliers of packaging or packaging materials</i>		

10. Any supplier of packaging or packaging materials shall provide the manufacturer with all the information and documentation necessary for the manufacturer to demonstrate the conformity of the packaging and the packaging materials with this Regulation, including the technical documentation referred to in Annex VII and required under Articles 5 to 10, in a language or languages, which can be easily understood by the manufacturer. That information and documentation shall be provided in either paper or electronic form.		
11. Where appropriate, the documentation and information provided for in legislation applicable to contact sensitive packaging shall be part of the information and documentation to be provided to the manufacturer pursuant to paragraph 1.		
<i>Article 15 Obligations of authorised representative</i>		
1. A manufacturer may, by a written mandate, appoint an authorised representative.		

The obligations laid down in Article 13(1) and the obligation to draw up technical documentation referred to in Annex VII and required under Articles 5 to 10 shall not form part of the authorised representative's mandate.		
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following: (a) keep the EU declaration of conformity and the technical documentation at the disposal of the national market surveillance authorities for ~~10~~ 5 years after ~~the~~ <u>single-use</u> packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market;</u> (b) cooperate with the national authorities, at their request, on any measures taken with regard to non-compliances of the packaging covered by the authorised representative's mandate; (c) further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of		

packaging in a language or languages, which can be easily understood by that authority; (d) further to a request from a competent national authority, make available relevant documents within 10 days of the receipt of such a request; (e) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.		
<i>Article 16 Obligations of importers</i>		
1. Importers shall only place on the market packaging which is compliant with the requirements of Articles 5 to 11.		
2. Before placing packaging on the market, importers shall ensure the following:		

(a) the appropriate conformity assessment procedure, referred to in Article 33 has been carried out and the technical documentation, referred to in Annex VII and required under Articles 5 to 10, has been drawn up by the manufacturer; (b) the packaging is labelled in accordance with Article 11, (c) the packaging is accompanied by the required documents; (d) the manufacturer has complied with the requirements set out in Article 13(5) and (6). Where an importer considers or has reason to believe that packaging is not in conformity with the applicable requirements set out in Articles 5 to 11, the importer shall not place the packaging on the market until it has been brought into conformity.		
3. Importers shall indicate on the packaging their name and their registered trade name or registered trade mark as well as the postal address, and, where available, the electronic means of communication, where they can be contacted. Where that is not possible, the required information shall be provided via the data carrier or in a document accompanying the packaged product. The contact details shall be clear, understandable and legible.		

4. Importers shall ensure that information provided in accordance with paragraph 3 is clear, understandable and legible, and does not replace, obscure or can be confused with information required by other Union legislation on the labelling of the packaged product.		
5. Importers shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements set out in Articles 5 to 11.		
6. Importers who consider or have reason to believe that packaging, which they have placed on the market, is not in conformity with the applicable requirements set out in Articles 5 to 11, shall immediately take the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate.		

7. Importers shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
8. Importers shall, for ~~40~~ 5 years after ~~the single-use~~ packaging has been placed on the market, <u>and 10 years after reusable packaging has been placed on the market,</u> keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation referred to in Annex VII and required under Articles 5 to 10 can be made available to those authorities, upon request.		
9. Importers shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of packaging, including technical documentation, with the applicable requirements set out in Articles 5 to 11, in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided ~~either in paper or~~ in electronic		

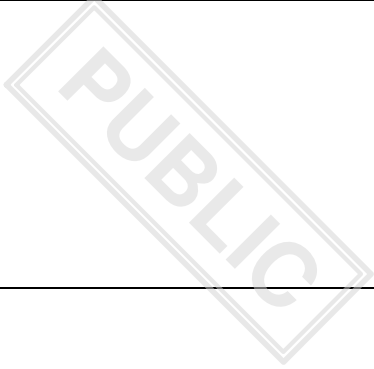
form and, on request, in paper form . The relevant documents shall be made available within 10 days of receipt of the request from the national authority.		
10. Importers shall cooperate with the competent national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 17 Obligations of distributors</i>		
1. When making packaging available on the market, distributors shall act with due care in relation to the requirements of this Regulation.		
2. Before making packaging available on the market, distributors shall verify the following:		

(a) the producer, that is subject to the obligations on extended producer responsibility for the packaging is registered in the register of producers referred to in Article 4039; (b) the packaging is labelled in accordance with Article 11; (c) the manufacturer and the importer have complied with the requirements set out in Article 13(5) and (6) and Article 16(3) respectively.		
3. Where a distributor, before making packaging available on the market, considers or has reason to believe that the packaging is not in conformity with the requirements set out in Articles 5 to 11 or that the manufacturer or importer is not complying with those applicable requirements, the distributor shall not make the packaging available on the market until it has been brought into conformity or until the manufacturer complies. Distributors shall ensure that, while the packaging is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Articles 5 to 11.		

4. Distributors who consider or have reason to believe that packaging, which they have made available on the market with the packaged product, is not in conformity with the applicable requirements set out in Articles 5 to 11 shall make sure that the corrective measures necessary to bring that packaging into conformity, to withdraw it or recall it, as appropriate, are taken. Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the packaging available of the suspected non-compliance and of any corrective measures taken.		
5. Distributors shall, further to a reasoned request from a national authority, provide that authority with all the information and documentation to which they have access and that is relevant for demonstrating the conformity of a packaging with the applicable requirements set out in Articles 5 to 11 in a language or languages, which can be easily understood by that authority. That information and documentation shall be provided in ~~paper or~~ electronic form and, on request, in paper form.		

Distributors shall cooperate with the national authority on any action taken to remedy any case of non-compliance with the requirements set out in Articles 5 to 11.		
<i>Article 18 Obligations of fulfilment service providers</i>		
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.		
<i>Article 19 Case in which obligations of manufacturers apply to importers and distributors</i>		
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 134, where they place packaging		

on the market under their own name or trademark or modify packaging already placed on the market in a way that may affect compliance with the relevant requirements of this Regulation		
<i>Article 20 Identification of economic operators</i>		
1. Economic operators shall, upon request, provide information to the market surveillance authorities on the following: (a) the identity of any economic operator that has supplied them with packaging; (b) the identity of any economic operator to which they have supplied packaging.		
2. Economic operators shall be able to provide the information referred to in paragraph 1(a) for ~~10~~ 5 years after they have been supplied with the single-use packaging and ~~for~~ 10 years after they have been supplied a reusable packaging.		

<u>Economic operators shall be able to provide the information referred to in paragraph 1(b) 5 years after they have supplied the single-use packaging and for 10 years after they have supplied the reusable packaging.</u>		
<i>Article 49 Information on prevention and management of packaging waste</i>		
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 41(1), producer responsibility organisations shall make available to end-users, in particular consumers, the following information regarding the prevention and management of packaging waste with respect to the packaging that the producers supply within the territory of a Member State:		

(a) the role of end-users in contributing to waste prevention, including any best practices; (b) re-use arrangements available for packaging; (c) the role of end-users in contributing to the separate collection of packaging waste materials, including handling of packaging containing hazardous products or waste; (d) the meaning of the labels and symbols affixed, marked or printed on packaging in accordance with Article 11 or present in the documents accompanying the packaged product; (e) the impact on the environment and on human health or safety of persons of inappropriate discarding of packaging waste, such as littering or discarding in mixed municipal waste, and the adverse environmental impact of single-use packaging, in particular plastic carrier bags; (f) the composting properties and appropriate waste management options for compostable packaging. <u>Consumers shall be informed that compostable packaging is compostable in industrially controlled conditions and should not be thrown in home compost or nature.</u>		

Obligations under paragraph 1(d) shall be applicable as of <i>[OP: Please insert the date = 42 months after the entry into force of this Regulation]</i> or the date of application of Article 11, whichever is the latest.		
2. The information referred to in paragraph 1 shall be up to date and provided by means of: (a) a website or other means of electronic communication; (b) public information; (c) education programmes and campaigns; (d) signposting in a language, or languages, which can be easily understood by users and consumers.		
3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		

Cluster 9 Conformity		
Recitals corresponding cluster 9		
(54) In order to safeguard the functioning of the internal market, it is necessary to ensure that packaging from third countries entering the Union market <u>complies</u> with this Regulation, whether imported as <u>self-standing standalone</u> packaging or ~~in~~ <u>as part of in association with</u> a packaged product. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that packaging. Importers should therefore ensure that the packaging they place on the market comply with those requirements and that documentation drawn up by manufacturers are available for inspection by the competent national authorities.		

(55) When placing packaging on the market, every importer should indicate on the packaging their name, registered trade name or registered 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.		
(56) As the distributor makes packaging available on the market after it has been placed there by the manufacturer or importer, they should act with due care in relation to the applicable requirements of this Regulation. The distributor should also ensure that their handling of the packaging does not adversely affect its compliance with those requirements.		
(57) As distributors and importers are close to the marketplace and have an important role in ensuring packaging compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate		

actively, providing those authorities with all necessary information relating to the ~~product~~ packaging concerned.		
(58) Any importer or distributor that either places on the market packaging under their own name or trademark, or modifies such a ~~product~~ packaging in such a way that compliance with this Regulation might be affected, should be considered to be the manufacturer and should assume the manufacturer's obligations.		
(59) Ensuring packaging's traceability throughout the whole supply chain facilitates the market surveillance authorities' task of tracing economic operators who placed on the market or made available on the market non-compliant packaging. The economic operators should therefore be required to keep the information on their transactions for a certain period of time.		

<i>Article 30 Test, measurement and calculation methods</i>		
For the purposes of compliance and verification of compliance of packaging with the requirements set out in Articles 5 to 11, ~~and 21~~ and 29 24 of this Regulation, tests, measurements and calculations shall be made using reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the art methods, and whose results are deemed to be of low uncertainty.		
<i>Article 31 Presumption of conformity</i>		
1. Tests, measurements or calculation methods referred to in Article 30 which are in conformity with harmonised standards or parts thereof, the references of which have been published in the <i>Official Journal of the European Union</i> , shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in that Article.		

2. Packaging which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Articles 5 to 11 and 24.		
<i>Article 32 Common ~~technical~~ technical specifications</i>		
1. Packaging which is in conformity with common technical specifications referred to in paragraph 2, or parts thereof, shall be presumed to be in conformity with the requirements set out in Articles 5 to 11 and 24 to the extent that those requirements are covered by those common technical specifications or parts thereof.		

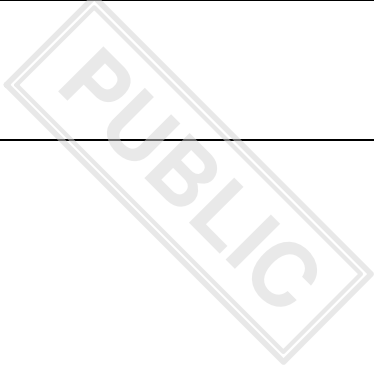
2. The Commission may, by means of implementing acts, establish common technical specifications for the requirements set out in Articles 5 to 11 and Article 24 where the following conditions are fulfilled: (a) there is no harmonised standard covering the relevant requirements the reference of which is published in the <i>Official Journal of the European Union</i> or the standard does not satisfy the requirements it aims to cover; and (b) the Commission has requested, pursuant to Article 10(1) of Regulation 1025/2012, one or more European standardisation organisations to draft or to revise a harmonised standard for the requirements set out in Articles 5 to 11 and Article 24 and either of the following conditions are fulfilled: (i) the request has not been accepted by any of the European standardisation organisations to which the request was addressed; (ii) the request has been accepted by at least one of the European standardisation organisations to which the request was addressed, but the standards requested:		

• are not adopted within the deadline set in the request; • do not comply with the request; or • are not fully in line with the requirements they aim to cover. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). <u>2a. Before preparing the draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 2 have been fulfilled.</u>		
3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation 1025/2012. When references of a harmonised standard ~~are~~ published in the <i>Official Journal of the European Union</i>, the Commission shall assess whether implementing acts referred to in paragraph 2, or parts thereof		

which cover the same requirements set out in Articles 5 to 11 and Article 24 need to be repealed or amended.		
<u>3a. When a Member State considers that a common specification does not entirely satisfy the requirements set out in Article 5 to 11 and Article 24, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and may, if appropriate, amend the implementing act establishing the common specification in question.</u>		
<i>Article 33 Conformity assessment procedure</i>		
Conformity assessment of packaging with the requirements set out in Articles 5 to 11 shall be carried out in accordance with the procedure set out in Annex VII.		

<i>Article 34 EU declaration of conformity</i>		
1. The EU declaration of conformity shall state that the fulfilment of the requirements set out in Articles 5 to 11 has been demonstrated.		
2. The EU declaration of conformity shall have the model structure set out in Annex VIII, shall contain the elements specified in the module set out in Annex VII and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the packaging is placed on the market or made available on the market.		

3. Where packaging or the packaged product are subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall, where appropriate, be drawn up in respect of all such Union acts. That declaration shall state the Union acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.		
4. By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the packaging with the requirements laid down in this Regulation.		

<u>ANNEX VII</u> <u>CONFORMITY ASSESSMENT PROCEDURE</u>		
Module A Internal production control		It is important to clarify how is this number is managed and who assigns it. Being a European declaration, who establishes this numbering to avoid duplications, e.g. Throughout the articles there is no specification or indication of who is responsible for that. Considering that it will be a European declaration for a certain package, this determination needs clarification.
1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 5 4, and ensures and declares on his sole responsibility that the packaging concerned satisfies the requirements of Articles 5 to 10 of this Regulation that apply to them.		
2. Technical documentation The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the packaging's		

conformity with the relevant requirements, and shall include an adequate analysis and assessment of the risk(s).

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

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



(iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts which have been applied, ~~(iv)~~ in the event of harmonised standards and/or common technical specifications not being applied, a description of the solutions adopted to meet the requirements referred to in point 1. (c) qualitative description of how the assessments provided for in Articles 6, 9 and 10 has been carried out, and, (d) test reports.		
3. Manufacturing The manufacturer shall take all measures necessary, so that the manufacturing process and its monitoring ensure compliance of the manufactured packaging with the technical documentation referred to in point 2 and with the requirements referred to in point 1.		

4. Declaration of conformity The manufacturer shall draw up a written declaration of conformity for a packaging type and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the packaging has been placed on the market. The declaration of conformity shall identify the packaging for which it has been drawn up. A copy of the declaration of conformity shall be made available to the relevant authorities upon request.		
5. Authorised representative The manufacturer's obligations set out in point 4 as regards keeping of the technical documentation may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.		
<u>ANNEX VIII</u>		

<u>EU DECLARATION OF CONFORMITY NO* ...</u>		
1. No.... (unique identification of the packaging):		
2. Name and address of the manufacturer and, where applicable, its authorised representative.		
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.		
4. Object of the declaration (identification of the packaging allowing traceability): description of the packaging.		

5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation: ... (reference to the other Union acts applied).		
6. References to the relevant harmonised standards or the common specifications used or references to the other technical specifications in relation to which conformity is declared.		
7. ~~The~~ Where applicable, the notified body ... (name, address, number) ... performed ... (description of intervention) ... and issued the certificate(s): ... (details, including its date, and, where appropriate, information on the duration and conditions of its validity).		
8. Additional information Signed for and on behalf of: (place and date of issue):		

(name, function) (signature)		
* (identification number of the declaration)		
Cluster 10 Safeguard procedures		
Recitals corresponding cluster 10		
(83) Regulation (EC) No 765/2008 of the European Parliament and of the Council^[1] 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. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the~~		

~~marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(123) Effective enforcement of sustainability requirements is essential to ensure fair competition to ensure that this Regulation's expected benefits and contribution to achieving the Union's climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020 of the European Parliament and of the Council^[1] setting out a horizontal framework for market surveillance and control of products entering the Union market should apply to packaging for which sustainability requirements are set pursuant to this Regulation. The market surveillance mechanisms laid down by Regulation (EU) 2019/1020 sets out the requirements for market surveillance relating to the marketing of products and provides for safeguard mechanisms to check compliance with this Regulation in respect of placing on the market of packaging. ^[1] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and ~~market surveillance relating to the~~		

~~marketing of products and~~ repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).		
(124) Packaging should be placed on the market only if it does not present a known risk to the environment and human health. In order to better align with the specific nature of sustainability requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, packaging presenting a risk should, for the purposes of this Regulation, be defined as packaging that, by not complying with a sustainability requirement or because a responsible economic operator does not comply with a sustainability requirement, may adversely affect the environment or other public interests protected by the relevant requirements.		
(131) In order to optimise and unburden the control process at the external borders of the Union, it is necessary to allow for an automated data transfer between the Information and Communication System on Market Surveillance (ICSMS)		

and customs systems. Two different data transfers should be distinguished in view of their respective purposes. Firstly, prohibitions measures decided by market surveillance authorities further to the identification of non-compliant packaging should be communicated from ICSMS to customs for use by authorities designated for controls at external borders to identify packaging that may correspond to such a prohibition measure. The **electronic** ~~Electronic System~~ Customs Risk Management Control System (CRMS) set out in Article 36 of Commission Regulation (EU) 2447/2015, without prejudice to any future evolution of the customs risk management environment, should be used for those first data transfers. Secondly, where customs authorities identify non-compliant packaging, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of market surveillance authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs supports those second data transfers between ICSMS and national customs systems.

PUBLIC

(132) In order to ensure uniform conditions for the implementation of the interconnection for communication between the market surveillance authorities and the customs authorities, the power to adopt implementing acts the power to adopt implementing acts in accordance with Article 291 of the Treaty should be delegated to the Commission to specify the procedural rules and the details of the implementation arrangements, including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for that interconnection.		
(133) When adopting delegated acts pursuant to Article 290 of the Treaty, the Commission should carry out appropriate consultations during its preparatory work, including at expert level, and those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the		

preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. When developing these delegated acts, the Commission should take into account scientific or other available technical information, including relevant international standards.	PUBLIC	
<i>Article 52 Procedure for dealing with packaging presenting a risk at national level</i>		
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 requirements laid down in this Regulation that are relevant to the risk. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.		

Where, in the course of that evaluation, the market surveillance authorities find that the packaging does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective measures, within a reasonable period prescribed by the market surveillance authorities which is commensurate with the nature and, where relevant the degree of the non-compliance, to bring the packaging in compliance with those requirements.		
2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		

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

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.		
6. The information to the Commission and the other Member States referred to in paragraph 5 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 and, where applicable, the information referred to in Article 55 4—(1). The market surveillance authorities shall also indicate whether the non-compliance is due to either of the following: (a) failure of the packaging to meet the sustainability requirements set out in Articles 5 to 10 of this Regulation;		

(b) shortcomings in the harmonised standards or common specifications referred to in Articles 31 and 32 of this Regulation.		
7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the packaging concerned, and, in the event of disagreement with the adopted national measure, of their objections.		
8. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. Provisional measures may provide for a period longer or shorter than three months in order to take account of the specificities of the requirements concerned.		

9. Member States shall ensure that the packaging is withdrawn from their market or that other appropriate restrictive measures are taken without delay in respect of the packaging or the manufacturer concerned.		
<i>Article 53 Union safeguard procedure</i>		
1. Where, on completion of the procedure set out in Article 52(3) (5) and (6) (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 by means of an implementing act whether the national measure is justified or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3).		

2. The Commission shall address its decision to all Member States and shall without delay communicate it to them and the relevant economic operator or operators. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant packaging is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.		
3. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the harmonised standards referred to in Article 31 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.		

4. Where the national measure is considered justified and the non-compliance of the packaging is attributed to shortcomings in the common technical specifications referred to in Article 32, the Commission shall, without delay, amend or repeal the common technical specifications concerned.	PUBLIC	
<i>Article 54 Compliant packaging which presents a risk</i>		
1. Where, having carried out an evaluation under Article 52, a Member State finds that although packaging is in compliance with the applicable requirements set out in Articles 5 to 11, it presents a risk to the environment or human health, it shall without delay require the relevant economic operator to take all appropriate measures, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of risk, to ensure that the packaging concerned, when placed on the market, no longer presents that risk, ~~to withdraw the packaging from the market or to recall it.~~		

2. By derogation from paragraph 1, in case of risk to human health concerns relating to contact sensitive packaging subject to specific legislation aimed at protecting human health, the surveillance authorities shall not evaluate a risk to human or animal health originating from the packaging material, if transferred to the packaged content of the packaging material, but alert the authorities competent for controlling those risks. These authorities shall be the competent authorities referred to in Regulation (EU) 2017/625, Regulation (EU) 2017/745, Regulation (EU) 2017/746, Directive 2001/83/EC or Regulation (EU) 2019/6.		
3. The economic operator shall ensure that corrective measures are taken in respect of all the concerned packaging that the economic operator has made available on the market throughout the Union.		
4. The Member State shall immediately inform the Commission and the other Member States of its findings and subsequent actions pursuant to paragraph 1. That information shall include all available details, in particular the data necessary for the identification of the packaging concerned, the origin and the supply chain of the		

packaging, the nature of the risk involved and the nature and duration of the national measures taken.		
5. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not and, where necessary, propose appropriate measures. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 59(3). On duly justified imperative grounds of urgency relating to the protection of the environment or human health, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 589(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.		

<i>Article 55 Controls on packaging entering the Union market</i>		
1. Market surveillance authorities shall communicate without delay to the authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 the measures referred to in Article 52(5) (4)—of this Regulation where the non-compliance is not restricted to their national territory. This communication shall include all relevant information, in particular the details necessary for the identification of the non-compliant packaging to which the measures apply and, in case of packaged product, the product itself. 1a. The authorities designated pursuant to Article 25(1) of Regulation (EU) 2019/1020 shall use the information communicated pursuant to paragraph 1 for carrying out their risk analysis under Article 25(3) of Regulation (EU) 2019/1020.		

2. The communication of information referred to in paragraph 1 shall take place through entering the information in the relevant customs risk management environment.		
3. The Commission shall develop an interconnection to automate the communication referred to in paragraph 1 from the information and communication system referred to in Article 52(56) to the environment referred to in paragraph 2 3. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 4 5.		
4. The Commission is empowered to adopt implementing acts specifying the procedural rules and the details of the implementation arrangements for paragraph 3 4- including the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3 4. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 59(3).		

<i>Article 56 Formal non-compliance</i>		
1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned: (a) the EU declaration of conformity has not been drawn up (b) the EU declaration of conformity has not been drawn up correctly; (c) the QR code or data carrier referred to in Article 11 do not provide access to the required information in accordance with that Article; (d) the technical documentation referred to in Annex VII is not available, is not complete or contains errors; (e) the information referred to in Article 13(6) or Article 16(3) is absent, false or incomplete; (f) any other administrative requirement set out in Article 13 or Article 16 is not fulfilled;		

(g) the requirements on restrictions on uses of certain packaging formats and on excessive packaging set out in Articles 21 and 22 are not complied with; (h) in relation to reusable packaging, the requirements on the establishment, operation and participation in a system for re-use referred to in Article 24 are not fulfilled; (i) in relation to refill, the information requirements set out in Article 25(1) and (2) are not fulfilled; (j) the requirements on the refill stations set out in Article 25(3) are not fulfilled; (k) the re-use and refill targets in Article 26 are not achieved.		
2. Where the non-compliance referred to in paragraph 1, points (a) to (f), persists, the Member State concerned shall take all appropriate measures to prohibit the packaging being made available on the market or ensure that it is recalled or withdrawn from the market. Where the non-compliance referred to in paragraph 1, points (g) to (k), persists, Member States shall apply the rules on penalties		

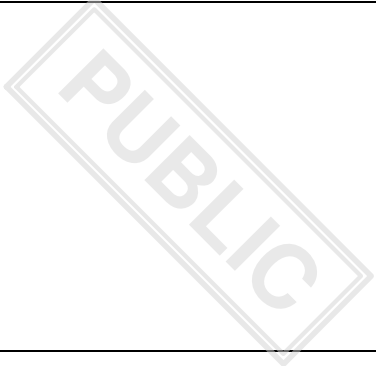
applicable to infringements of this Regulation which are laid down by the Member States in accordance with Article 62.		
Cluster 11 Final Chapters		
Recitals corresponding cluster 11		
(134) In order to ensure that product requirements in Directive (EU) 2019/904 can be monitored and enforced and that they are ~~subject to~~ subject to appropriate market surveillance, Regulation (EU) 2019/1020 should be amended to include Directive (EU) 2019/904 into its scope. The requirements ~~the requirements~~ related to the ~~plastic~~ recycled plastic content for plastic beverage bottles as of 1 January 2030 should be deleted from Directive (EU) 2019/904, as this matter is exclusively regulated by this Regulation. The corresponding reporting obligations should also be deleted. <u>~~As this Regulation does not regulate the recycled content in the plastic part in packaging before 1~~</u>		

<u>January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		
(134a) This Regulation establishes general rules applying to all packaging. However, ~~€~~certain single-use plastic products covered by Directive (EU) 2019/904 are considered to be packaging (e.g. i.e. plastic carrier bags, beverages cups, food and beverage containers, including bottles) <u>with the main purpose of that Directive being to prevent littering and its environmental impact.</u> Directive (EU) 2019/904 is a <i>lex specialis</i> in relation to this Regulation. In the event of a conflict between Directive (EU) 2019/904 and this Regulation, Directive (EU) 2019/904 should prevail within the scope of its application, <u>unless specifically provided otherwise in this Regulation.</u> <u>Article 4 of Directive (EU) 2019/904 requires Member States to take measures to reduce the consumption of certain single-use plastic products, including marketing</u>		

restrictions. Because Directive (EU) 2019/904 is a lex specialis in relation to this Regulation, such marketing restrictions adopted by the Member States pursuant to Directive (EU) 2019/904 should apply and prevail over any conflicting provisions in this Regulation. As a consequence, it should not be possible for Member states to adopt an exemption from the ban in Article 5 in Directive (EU) 2019/904 on placing packaging made of expanded polystyrene on the market.

Article 22 of this Regulation provides a restriction on the placing on the market of plastic products listed in Annex V point 3 thereto, while Article 4 of Directive (EU) 2019/904 allows the Member States to take the necessary measures to achieve reduction in the consumption of those single-use plastic products. Since such measures can be less restrictive than a ban on the placing on the market, in order to boost the reduction of single use plastic packaging and reduce the amount of single use plastic packaging in the environment, it is deemed necessary to establish stricter measures than those which can be adopted pursuant to article 4 in Directive (EU) 2019/904. Therefore Article 22 in this Regulation



<u>should prevail over Directive (EU) 2019/904 as regards such products. [In addition, Article 26(2)(3) and Article 45(4) under this Regulation should prevail over Directive (EU) 2019/904 as regards such products, for the same reasons.] To reflect this, Directive (EU) 2019/904 should be amended accordingly.</u>		
<u>(134bis) As this Regulation does not regulate the recycled content in the plastic part in packaging before 1 January 2030, provisions regarding requirements for recycled content for plastic beverage bottles in Directive (EU) 2019/904 should remain in force before this date.</u>		
(135) To enhance public trust in packaging placed on the market, in particular as regards compliance with sustainability requirements, the economic operators placing non-compliant packaging on the market or who do not comply with their obligations should be subject to penalties. It is therefore necessary that Member States lay down effective,		

proportionate and dissuasive penalties in national law for failure to comply with this Regulation.		
(136) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Inter-institutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of packaging and the functioning of the internal market.		
(137) It is necessary to provide for sufficient time for economic operators to comply with their obligations under this Regulation, and for Member States to set up the		

administrative infrastructure necessary for its application. The application of this Regulation should therefore also be deferred to a date where those preparations can reasonably be finalised. Particular attention should be paid to facilitate compliance by SMEs with their obligations and requirements under this Regulation, including through guidance to be provided by the Commission to facilitate compliance by economic operators, with a focus on SMEs.		
(138) In order to meet those commitments and establish an ambitious yet harmonised framework on packaging, it is necessary to adopt a Regulation establishing requirements on packaging over its entire life-cycle. Directive 94/62/EC should therefore be repealed.		
(139) In order to allow Member States to take the necessary administrative measures regarding the organisation of the authorisation procedures by the competent authorities, while keeping continuity for economic operators, the application of this ~~Directive~~ Regulation should be deferred.		

(140) Directive 94/62/EC should be repealed with effect from the date of application of this Regulation. However, in order to ensure a smooth transition and continuity until new rules are adopted by the Commission under this Regulation, and to provide for continuity in the application of the system of own resources of the Union with regard to the own resource based on non-recycled plastic packaging waste, certain obligations under that Directive related to labelling, recycling targets and the transmission of data to the Commission should remain in force for a certain period of time.		
(141) Since the objectives of this Regulation, namely to improve the environmental sustainability of packaging and to ensure the free movement of packaging in the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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.		
<i>Article 58 Exercise of the delegation</i>		
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
2. The power to adopt delegated acts referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), ~~Article 7(11)~~ , Article 8(5), Article 22(4), Article 26(16) and Article 57(3) shall be conferred on the Commission for a period of ~~ten~~ five years from date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end		

of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period.	PUBLIC	
3. The delegation of power referred to in Article 5(5), Article 6(4), Article 6(6), Article 7(9), Article 7(10), Article 7(11), Article 8(5), Article 22(4), Article 26(16) and Article 57(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force		
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in		

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

period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 59 Committee procedure</i>		
1. The Commission shall be assisted by the committee referred to in Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ~~Where the~~		

~~committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 72, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.~~ <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in Article 55, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.</u>		
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 of that Regulation, shall apply.		

Article 60 Amendments to Regulation (EU) 2019/1020		
Regulation (EU) 2019/1020 is amended as follows: (a) Annex I is amended as follows: (i) point 9 is deleted; (ii) the following points are added: 'X [OP Please insert the next consecutive number] Directive (EU) 2019/904 of the European ~~Parelimant~~ Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p.1); ~~'X [OP Please insert the next consecutive number] Regulation (EU) .../... on packaging and packaging waste, amending Regulation (EU) 2019/1020, and repealing Directive 94/62/EC [for the Publications Office to fill in the OJ publication details].~~ (b) in Annex II, point 8 is deleted.		

<i>Article 61</i> <i>Amendments to Directive (EU) 2019/904</i>		
Directive (EU) 2019/904 is amended as follows: <u>(aa) in Article 2(2), the following text is added to the end of the sentence: ‘unless the PPWR expressly provides otherwise.’</u> <u>Article 22(4a) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards single use plastic packaging listed in Annex V point 3.</u> <u>[Article 26(2) and (3) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u> <u>[Article 45(4) shall prevail when in contrast with Article 4 of Directive (EU) 2019/904 as regards the use of single use plastic packaging]</u>		

(a) in Article 6(5), points (a) and point (b), is are deleted as of 1 January 2030; (b) in Article 13(1), point (e), is deleted as of 1 January 2030; (c) Article 13(3) is be replaced by ‘3. The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and every four years thereafter.’		
<i>Article 62 Penalties</i>		
1. By [<i>OP: Please insert the date = 24 months after the date of entry into force of this Regulation</i>], 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 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator.~~		
2. Failure to comply with the requirements of Articles 21 to 26 shall be sanctioned by an administrative fine imposed on the relevant economic operator. Where the legal system of the Member State does not provide for administrative fines, the first paragraph may be applied in such a manner that the fining procedure is initiated by the relevant authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have equivalent effect to the administrative fines referred to in that paragraph. In any event, the fines imposed shall also be effective, proportionate and dissuasive.		

3. Member States shall, by [<i>OP: please insert the date = 1 year after the date of entry into force of this Regulation</i>], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.		
<i>Article 63 Evaluation</i>		
By [<i>OP: Please insert the date = 8 years after the date of application of this Regulation</i>], the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market and the improvement of the environmental sustainability of packaging. The Commission shall present a report on the main findings of that evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions. Member States shall provide the		

Commission with the information necessary for the preparation of that report.		
<i>Article 64 Repeal and transitional provisions</i>		
Directive 94/62/EC is repealed with effect from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. However, the following transitional provisions shall apply: (a) Article 8(2) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = 42 months after the date of entry into force of this Regulation]; (b) Article 5(2) and (3), Article 6(1), points (d) and (e), and Article 6a of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 36 months after the data entry into force of this Regulation]; (c) Articles 12(3a), (3b), (3c) and (4) of Directive 94/62/EC shall continue to apply until [OP: Please insert the date = the last		

day of the ~~same~~ calendar year ~~following~~ in which the period of 36 months after the date of entry into force ends of this Regulation], except as regards the transmission of data to the Commission which shall continue to apply until [OP: Please insert the date = the last day of the calendar year following 54 months after the date entry into force of this Regulation]. <u>(ca) Commission Decision 2001/171/EC and Commission Decision 2009/292/EC shall remain into force and continue to apply until repealed by delegated acts adopted by the Commission adopted pursuant to Article 5(5a) of this Regulation.</u> References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.		
<i>Article 65 Entry into force and application</i>		

This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. It shall apply from [OP: Please insert the date = 12 months after the date of entry into force of this Regulation]. This Regulation shall be binding in its entirety and directly applicable in all Member States.	PUBLIC																							
 <u>ANNEX XIII</u> <u>CORRELATION TABLE</u>																								
<table><tr><td><i>Directive 94/62/EC</i></td><td><i>This Regulation</i></td></tr><tr><td>Article 1(1)</td><td>Article 1(1-2)</td></tr><tr><td>Article 1(2)</td><td>Article 1(3)</td></tr><tr><td>Article 2(1)</td><td>Article 2(1)</td></tr><tr><td>Article 2(2)</td><td>Article 2(2)</td></tr><tr><td>Article 3(1), first subparagraph</td><td>Article 3(1)</td></tr><tr><td>Article 3(1), second subparagraph, point (a)</td><td>Article 3(2)</td></tr><tr><td>Article 3(1), second subparagraph, (b)</td><td>Article 3(3)</td></tr><tr><td>Article 3(1), second subparagraph, point (c)</td><td>Article 3(4)</td></tr><tr><td>Article 3(1), third subparagraph, point (i)</td><td>Article 3(1)(a)</td></tr><tr><td>Article 3(1), third subparagraph, point (ii)</td><td>Article 3(1)(d-e)</td></tr></table>	<i>Directive 94/62/EC</i>	<i>This Regulation</i>	Article 1(1)	Article 1(1-2)	Article 1(2)	Article 1(3)	Article 2(1)	Article 2(1)	Article 2(2)	Article 2(2)	Article 3(1), first subparagraph	Article 3(1)	Article 3(1), second subparagraph, point (a)	Article 3(2)	Article 3(1), second subparagraph, (b)	Article 3(3)	Article 3(1), second subparagraph, point (c)	Article 3(4)	Article 3(1), third subparagraph, point (i)	Article 3(1)(a)	Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)		
<i>Directive 94/62/EC</i>	<i>This Regulation</i>																							
Article 1(1)	Article 1(1-2)																							
Article 1(2)	Article 1(3)																							
Article 2(1)	Article 2(1)																							
Article 2(2)	Article 2(2)																							
Article 3(1), first subparagraph	Article 3(1)																							
Article 3(1), second subparagraph, point (a)	Article 3(2)																							
Article 3(1), second subparagraph, (b)	Article 3(3)																							
Article 3(1), second subparagraph, point (c)	Article 3(4)																							
Article 3(1), third subparagraph, point (i)	Article 3(1)(a)																							
Article 3(1), third subparagraph, point (ii)	Article 3(1)(d-e)																							

Article 3(1), third subparagraph, point (iii)	Article 3(1)(b-c)	PUBLIC	
Article 3(1a)	Article 3(43)		
Article 3(1b)	Article 3(44)		
Article 3(1c)	Article 3(45)		
Article 3(1d)	Article 3(46)		
Article 3(1e)	---		
Article 3(2)	Article 3(20)		
Article 3(2a)	Article 10(1)		
Article 3(2b)	Article 3(19)		
Article 3(2c)	Article 3(60) and fourth subparagraph of Article 3		
Article 3(11)	Article 3(8)		
Article 3(12)	---		
Article 4(1), first subparagraph	Article 38(2)		
Article 4(1), second subparagraph	---		
Article 4(1), third subparagraph	Article 38(3)		
Article 4(1a), first subparagraph	Article 29(1), first subparagraph		
Article 4(1a), second subparagraph	Article 29(2), second sentence		
Article 4(1a), third subparagraph	Article 29(2), first sentence		
Article 4(1a), fourth subparagraph, point (a)	Article 29(1), second subparagraph		
Article 4(1a), fourth subparagraph, point (b)	Article 29(4)		
Article 4(1a), fifth subparagraph	Article 50(1), point (b)		

Article 4(1a), sixth subparagraph	Article 50(7), point (b)		
Article 4(1b)	Article 29(3)		
Article 4(1c)	---		
Article 4(2)	---		
Article 5(1)	Article 45(1)		
Article 5(1)(a)	Article 45(2), point (a)		
Article 5(1)(b)	Article 26(1-10)		
Article 5(1)(c)	Article 45(2), point (b)		
Article 5(1)(d)	Article 45(2) point (c)		
Article 5(2), first subparagraph	Article 48(1), first subparagraph		
Article 5(2), second subparagraph, point (a)	Article 48(1), second subparagraph, point (a)		
Article 5(2), second subparagraph, point (b)	Article 48(1), second subparagraph, point (b)		
Article 5(2), third subparagraph	Article 48(1), third subparagraph		
Article 5(3)	Article 48(2)		
Article 5(4)	Article 50(7), point (a)		
Article 5(5)	---		
Article 6(1)(a)	---		
Article 6(1)(b)	---		
Article 6(1)(c)	---		
Article 6(1)(d)	---		
Article 6(1)(e)(i)	---		
Article 6(1)(e)(ii)	---		
Article 6(1)(e)(iii)	---		
Article 6(1)(e)(iv)	---		
Article 6(1)(e)(v)	---		
Article 6(1)(f)	Article 46(1)(a)		

Article 6(1)(g)(i)	Article 46(1)(b)(i)	PUBLIC	
Article 6(1)(g)(ii)	Article 46(1)(b)(ii)		
Article 6(1)(g)(iii)	Article 46(1)(b)(iii)		
Article 6(1)(g)(iv)	Article 46(1)(b)(iv)		
Article 6(1)(g)(v)	Article 46(1)(b)(v)		
Article 6(1)(g)(vi)	Article 46(1)(b)(vi)		
Article 6(1)(h)	Article 46(1)(c)		
Article 6(1)(i)(i)	Article 46(1)(d)(i)		
Article 6(1)(i)(ii)	Article 46(1)(d)(ii)		
Article 6(1)(i)(iii)	Article 46(1)(d)(iii)		
Article 6(1)(i)(iv)	Article 46(1)(d)(iv)		
Article 6(1)(i)(v)	Article 46(1)(d)(v)		
Article 6(1)(i)(vi)	Article 46(1)(d)(vi)		
Article 6(1a)(a)	Article 46(2)(a)		
Article 6(1a)(b)	Article 46(2)(b)		
Article 6(1a)(c)	Article 46(2)(c)		
Article 6(1a)(d)	Article 46(2)(d)		
Article 6(1b)	Article 46(3)		
Article 6(1c)	Article 46(4)		
Article 6(4)(a)	Article 46(5)(a)		
Article 6(4)(b)	Article 46(5)(b)		
Article 6(6)	Article 49(2)		
Article 6(7)	---		
Article 6(10)	Article 46(6)		
Article 6(11)	---		
Article 6a(1)(a)	Article 47(2)		
Article 6a(1)(b)	Article 47(3)		
Article 6a(2)	Article 47(6)		
Article 6a(2)(a)	Article 47(6)(a)		
Article 6a(2)(b)	Article 47(6)(b)		

Article 6a(3)	Article 47(7)	PUBLIC	
Article 6a(4)	Article 47(8)		
Article 6a(5)	Article 47(9)		
Article 6a(6)	Article 47(10)		
Article 6a(7)	Article 47(11)		
Article 6a(8)	Article 47(12)		
Article 6a(9)	Article 50(7), point (a)		
Article 6b	Article 36		
Article 7(1)	Article 43(1) and (2)		
Article 7(2)	Articles 39-42		
Article 7(3)	Article 43(3)		
Article 7(4)	Article 43(4)		
Article 8(1)	Article 11		
Article 8(2)	Article 11(1)		
Article 8(3)	Article 11(4)		
Article 8a	Article 11(1) and (5)		
Article 9(1)	Articles 5-10		
Article 9(2)(a)	Article 31		
Article 9(2)(b)	---		
Article 9(3)	---		
Article 9(4)	---		
Article 9(5)	---		
Article 10	Article 31(2)		
Article 11(1)	Article 5(2)		
Article 11(2)	---		
Article 11(3)	Article 5(5)		
Article 12(1)	Article 51(1)		
Article 12(2)	Article 51(2)		
Article 12(3a)	Articles 50(1) point (a), 50(3) point (a) and 50(4)		

Article 12(3b)	Article 50(5) and 50(6)	PUBLIC	
Article 12(3c)	-		
Article 12(3d)	Article 50(7)		
Article 12(4)	Article 50(8)		
Article 12(6)	Article 50(8)		
Article 13, first subparagraph	Article 49(1)		
Article 13, second subparagraph	---		
Article 14	Article 37		
Article 15	Article 29, Article 38, Article 45		
Article 16(1)	---		
Article 16(2)	---		
Article 18	Article 4		
Article 19(1)	---		
Article 19(2)	---		
Article 20	---		
Article 20a(1)	---		
Article 20a(2)	---		
Article 20a(3)	---		
Article 21(1)	Article 59(1)		
Article 21(2), first subparagraph	Article 59(3), first subparagraph		
Article 21(2), second subparagraph	Article 59(3), second subparagraph		
Article 21a(1)	Article 58(1)		
Article 21a(2)	Article 58(2)		
Article 21a(3)	Article 58(3)		
Article 21a(4)	Article 58(4)		
Article 21a(5)	Article 58(5)		
Article 21a(6)	Article 58(6)		

Article 22(1)	---	PUBLIC	
Article 22(2)	---		
Article 22(3)	---		
Article 22(3a), first subparagraph	---		
Article 22(3a), second subparagraph, point (a)	---		
Article 22(3a), second subparagraph, point (b)	---		
Article 22(3a), second subparagraph, point (c)	---		
Article 22(3a), second subparagraph, point (d)	---		
Article 22(3a), second subparagraph, point (e)	---		
Article 22(3a), second subparagraph, point (f)	---		
Article 22(4)	---		
Article 22(5)	---		
Article 23	---		
Article 24	---		
Article 25	---		
Annex I	Annex I		
Annex II, point 1	Articles 5, 6, 9 and 10 and Annexes II and IV		
Annex II, point 2	Article 10 and Annex IV		
Annex II, point 3(a)	Article 6 and Annex II		
Annex II, point 3(b)	---		
Annex II, point 3(c)	Articles 8 and 3(41) and Annex III		
Annex II, point 3(d)	Articles 8 and 3(41) and Annex II		

Annex III	Annex XII		
Annex IV	Annex XI		

PUBLIC