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General Secretariat

Brussels, 10 February 2023

**Interinstitutional files:
2022/0396 (COD)**

WK 1979/2023 INIT

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CONSULTATION

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Packaging and packaging waste: Follow-up to the informal videoconference WPE meeting on 9 February 2023: calls for comments

Following the above informal videoconference WPE meeting, delegations are kindly invited to send comments and drafting suggestions on cluster 4 (Articles 9, 21, 22, 29, 38 and Annexes IV, V) and cluster 6 (Articles 35-37, 39-44, 46-48, 50-51 and Annexes IX, X, XI, XII) in the attached table to the Presidency

[redacted], the Commission ([redacted]), with copy to the Council Secretariat [redacted], by Thursday 23 February, cob.

In view of the WPE meeting on 28 February 2023, delegations are invited to send questions on clusters 5, 8, 9, 10 and 11 to the Presidency [redacted]

[redacted], the Commission ([redacted]), with copy to the Council Secretariat ([redacted])

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[REDACTED]), by Thursday 23
February, cob.



Dear Delegates,

Kindly find attached the articles discussed at the meeting on 25 January 2023 – parts of the Commission proposal for the PPWR in a table form. We kindly ask for your comments by **23th February 2023**.

Kindly note the following important instructions when completing the table:

- Do not delete any lines or squares from the table;
- 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.

Commission proposal	Drafting Suggestions	Comments
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		
WASTE PREVENTION		
<i>Relevant definitions (please comment on definitions linked to waste prevention)</i>		

<i>Relevant recitals (please comment on recitals linked to waste prevention)</i>		
<i>Article 9 - Packaging minimisation</i>		
1. Packaging shall be 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. Packaging not necessary to comply with any of the performance criteria set out in Annex IV and packaging with characteristics that are only aimed to increase the perceived volume of the product, including double walls, false bottoms, and unnecessary layers, shall not be placed on the market, unless the packaging design is subject to geographical indications of origin protected under Union legislation.		
3. Empty space shall be reduced to the minimum necessary for ensuring the packaging functionality 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.		
<p>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:</p> <p>(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;</p> <p>(b) the identification of the design requirements which prevent further reduction of the packaging weight or volume, for each of these performance criteria;</p> <p>(c) any test results, studies or other relevant sources used to assess the minimum necessary volume or weight of the packaging.</p> <p>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.</p>		
Annex IV - METHODOLOGY FOR PACKAGING MINIMISATION ASSESSMENT		

PART 1 – Performance criteria		
PART 2 – Assessment methodology and determination of the minimum packaging volume and weight		
<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, shall be considered as empty space.		

3. Economic operators using sales packaging as e-commerce packaging shall be exempted from the obligation laid down in paragraph 1. They shall nevertheless ensure that such sales packaging complies with the requirements in Article 9.		
<i>Article 22 Restrictions on use of certain packaging formats</i>		
1. 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 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 applicable on <i>[OP: Please insert the date = the date of entry into force of this Regulation]</i> , and where 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		
ANNEX V - RESTRICTIONS ON USE OF PACKAGING FORMATS		
Chapter V Plastic carrier bags		
<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 marketing restrictions, provided that they are proportionate and non-discriminatory.		
3. Member States may take measures, such as economic instruments and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness, in accordance with the obligations arising from the Treaty.		
4. Member States may exclude very lightweight plastic carrier bags, which are required for hygiene purposes or provided as sales packaging for loose food to prevent food wastage from the obligations set out in paragraph 1.		
<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 (a) 5 % by 2030; (b) 10 % by 2035;		

(c) 15 % by 2040.		
2. Member States shall implement measures aiming to prevent the generation of packaging waste and to minimise the environmental impact of packaging.		
3. For the purpose of paragraph 2, Member States may use 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 shall be proportionate and non-discriminatory and be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.		
4. 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.		
Chapter VII Management of packaging and of packaging waste		
<i>Relevant definitions (please comment on definitions linked to waste management)</i>		
<i>Relevant recitals (please comment on recitals linked to waste management)</i>		
<i>Article 35 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 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 = 3 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 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,		

<p>accompanied by appropriate recommendations for the Member States concerned;</p> <p>(c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.</p>		
<i>Article 37 Waste management plans</i>		
<p>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 38 and 45 of this Regulation.</p>		
<i>Article 39 Register of producers</i>		
<p>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 representatives for the extended producer responsibility.</p>		
<p>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</p>		

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, be met by an appointed representative for the extended producer responsibility.		
4. Producers shall not make available packaging on the market, if they or, where applicable, their appointed 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 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.		

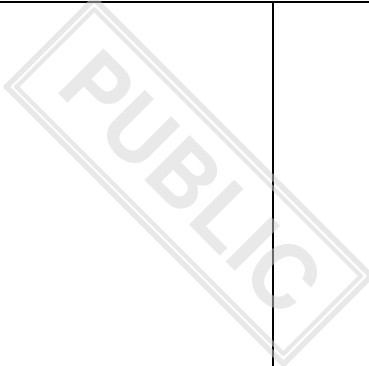
<p>7. The producer or, where applicable, the producer's appointed representative for the extended producer responsibility or the producer responsibility organisation shall report to the competent authority responsible for the register, by 1 March for each full preceding calendar year, the information set out in Part B of Annex IX.</p>		
<p>8. The competent authority responsible for the register:</p> <p>(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;</p> <p>(b) shall grant registrations and provide a registration number within a maximum period of twelve weeks from the moment that all the information laid down in paragraphs 5 and 6 is provided;</p> <p>(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;</p> <p>(d) may charge cost-based and proportionate fees to producers for the processing of applications referred to in paragraph 2;</p>		

(e) shall receive and monitor the reporting referred to in paragraph 7.		
9. The producer, or, where applicable, the producer's appointed 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.		
10. 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 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).		

Annex IX - INFORMATION FOR REGISTRATION AND REPORTING TO THE REGISTER REFERRED TO IN ARTICLE 39		
<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.		
2. A producer shall appoint, by written mandate, an appointed 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. Providers of online platforms, falling within the scope of Section 4 of Chapter 3 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.		
<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, 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 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		

<p>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 be done by 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.</p>		
<p>3. The measures to be established by Member States in accordance with paragraph 2 shall include measures ensuring that:</p> <p>(a) the requirements laid down in of Article 8a(3), points (a) to (d), of Directive 2008/98/EC are complied with;</p> <p>(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, 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;</p>		

<p>(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;</p> <p>(d) the necessary sorting and recycling capacity is available to ensure that packaging waste collected is subsequently subject to preliminary treatment and recycling;</p> <p>(e) the requirement laid down in paragraph 6 is complied with;</p>		
<p>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.</p>		
<p>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.</p>		
<p>6. A producer, in the case of individual fulfilment of extended producer responsibility obligations, and</p>		

<p>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 in the producer responsibility organisation. Member States may specify additional requirements on this guarantee.</p>		
<i>Article 49 Information on prevention and management of packaging waste</i>		
<p>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:</p> <p>(a) the role of end-users in contributing to waste prevention, including any best practices;</p>		

<p>(b) re-use arrangements available for packaging;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(f) the composting properties and appropriate waste management options for compostable packaging.</p>		
<p>2. The information referred to in paragraph 1 shall be up to date and provided by means of:</p> <p>(a) a website or other means of electronic communication;</p> <p>(b) public information;</p> <p>(c) education programmes and campaigns;</p> <p>(d) signposting in a language, or languages, which can be easily understood by users and consumers.</p>		

3. Where information is provided publicly, the confidentiality of commercially sensitive information in conformity with the relevant Union and national law shall be preserved.		
<i>Article 43 Return and collection systems</i>		
1. 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 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.		
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;		

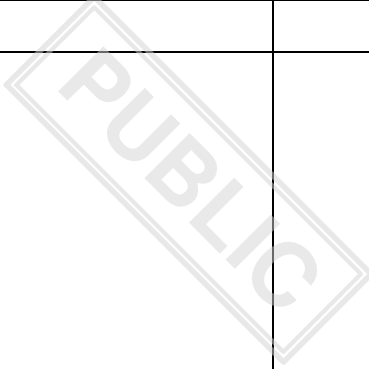
<p>(b) cover the whole territory of the Member State and all packaging waste from all types of packaging and activities, and take into account population size, expected volume and composition of packaging waste, as well as accessibility and vicinity to end users. They shall include the separate collection in public spaces, business premises and residential areas;</p> <p>(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.</p>		
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>		

<p>1. By 1 January 2029, Member States shall take the necessary measures to ensure that deposit and return systems are set up for:</p> <p>(a) single use plastic beverage bottles with the capacity of up to three litres; and</p> <p>(b) single use metal beverage containers with a capacity of up to three litres</p>		
<p>2. The obligation laid down in paragraph 1 does not apply to packaging for:</p> <p>(a) wine, aromatised wine products, and spirit drinks;</p> <p>(b) milk and milk products listed in Part XVI of Annex I to Regulation (EU) No 1308/2013.</p>		
<p>3. Without prejudice to paragraph 1 of this Article, a Member State will be exempted from the obligation under paragraph 1 under the following conditions:</p> <p>(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 on the market 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</p>		

<p>exemption set out in this paragraph are fulfilled;</p> <p>(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.</p>		
<p>4. Within three months of receipt of the implementation plan submitted pursuant to paragraph 3, point (b), the Commission may request a Member State to revise that plan, if it considers that it does not comply with the requirements set out in point (c) of that paragraph. The Member State concerned shall submit a revised plan within 3 months of receipt of the Commission's request.</p>		
<p>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</p>		

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.		
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, meet the minimum criteria listed in Annex X.		
Annex X - MINIMUM REQUIREMENTS FOR DEPOSIT AND RETURN SYSTEMS		

<i>Article 46 Recycling targets and promotion of recycling</i>		
<p>1. Member States shall take the necessary measures to attain the following recycling targets covering the whole of their territory:</p> <p>(a) by 31 December 2025, a minimum of 65 % by weight of all packaging waste generated;</p> <p>(b) by 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:</p> <p>(i) 50 % of plastic;</p> <p>(ii) 25 % of wood;</p> <p>(iii) 70 % of ferrous metals;</p> <p>(iv) 50 % of aluminium;</p> <p>(v) 70 % of glass</p> <p>(vi) 75 % of paper and cardboard;</p> <p>(c) by 31 December 2030, a minimum of 70 % by weight of all packaging waste generated;</p> <p>(d) by 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated:</p> <p>(i) 55 % of plastic;</p> <p>(ii) 30 % of wood;</p> <p>(iii) 80 % of ferrous metals;</p> <p>(iv) 60 % of aluminium;</p> <p>(v) 75 % of glass;</p> <p>(vi) 85 % of paper and cardboard.</p>		

<p>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:</p> <p>(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,</p> <p>(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 %,</p> <p>(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</p> <p>(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</p>		
<p>3. Within three months of receipt of the implementation plan submitted pursuant to paragraph 2, point (d), the Commission may request</p>		

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 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 requirements set out in this Article.		

Annex XI IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO POINT (D) OF ARTICLE 46(2)		
<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, 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.		

<p>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.</p>		
<p>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.</p>		
<p>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</p>		

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>		

<p>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:</p> <p>(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</p> <p>(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.</p> <p>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.</p>		
<p>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).</p>		

<i>Article 50 Reporting to the Commission</i>		
<p>1. Member States shall report to the Commission for each calendar year the following data:</p> <p>(a) data on the implementation of Article 46(1), points (a) to (d), and on reusable packaging,</p> <p>(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;</p> <p>(c) the separate collection rate of packaging covered by the obligation to establish deposit and return systems set out in Article 44(1),</p> <p>Member States may provide data on the annual consumption of very thick plastic carrier bags per person.</p>		
<p>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:</p> <p>(a) the amounts of packaging placed on the market for each packaging type and material as listed in Table 1 of Annex IX;</p> <p>(b) amounts of separately collected packaging waste for each packaging material as listed in Table 1 in the Annex IX;</p>		

(c) the recycling rates;		
(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(5) and (8), including detailed information about the average loss rates where applicable.		
<p>7. The Commission shall, by [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], adopt implementing acts establishing:</p> <p>(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;</p> <p>(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;</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p>		
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 facing small and medium-sized enterprises with regard to the provision of detailed data.		
<i>Article 51 Packaging databases</i>		
1. Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonised basis.		
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.		
ANNEX XII DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE		

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