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MEETING DOCUMENT

From: To:	General Secretariat of the Council Antici Group (Simplification)
N° Cion doc.:	ST 16753/25 INIT ST 16754/25 INIT
Subject:	Environment Omnibus (Suspending Regulation and Suspending Directive): WP meeting on 10 March 2025: Presidency steering note

With a view to the above mentioned meeting, delegations will find attached a steering note prepared by the Presidency.

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Presidency Discussion Paper
for AGS on 10 March 2026

Environmental Omnibus – Suspending proposals

In view of the **Antici Group (Simplification) meeting on 10 March 2026**, building on the previous exchanges on 19 January and 9 February and comments submitted by delegations, the Presidency presents a steering note focusing on the **suspending proposals**:

- Suspending Regulation on authorised representative for extended producer responsibility (2025/0395 (COD));
- Suspending Directive on authorised representatives for extended producer responsibility (2025/0396 (COD)).

From previous exchanges, the Presidency understands there are concerns about the impacts of the proposed suspensions on ensuring compliance and enforcement with EPR obligations. To further progress in the discussions, the Presidency suggests focusing on the five legal acts concerned by the suspension individually, as well as on the scope and timing of the suspensions.

To structure the discussion, the Presidency includes **four guiding questions** at the end of this paper, to be taken in one round.

Proposed suspensions to alleviate administrative burden

The proposed suspensions are an interim solution while the new Circular Economy Act is being prepared and will eventually be negotiated. The instrument of suspension aims to reduce the administrative burden for producers established in one Member State and in certain cases in third countries selling their products in other Member States, particularly regarding the obligations of these producers in the extended producer responsibility (EPR) schemes in those other Member States. In line with the producer's responsibility to cover the costs of managing the product at its end of life, an authorised representative for EPR acts on behalf of the producer selling products in a Member State where the producer is not established or if it is established in a third country.

In light of the scattered and differing rules in sectoral legislation, which constitute a non-tariff barrier in the single market and lead to significant costs for companies, the suspension, proposed until 1 January 2035, would provide EU-based producers with the flexibility to choose whether to appoint an authorised representative in another Member State.

For non-EU producers, established in third countries, the appointment of authorised representatives for EPR is proposed to remain as currently contained in sectoral legislation or to rely on alternative means as a replacement of the authorised representative. Therefore, the proposal creates flexibility by offering the option of a different instrument to ensure the same level of traceability and enforceability. The addressees of this empowerment are the Member States and it is therefore at the discretion of Member States whether to require the appointment of an authorised representative or to opt for alternative means.

The proposal concerns five legislative acts – listed below – which establish the obligation to appoint authorised representatives. The different sets of rules under those acts have varying timelines, as some are already applicable (Batteries Regulation, SUP Directive, WEEE Directive) whereas others will become applicable at a later date (PPWR, WFD).

(a) Regulation 2023/1542 concerning batteries and waste batteries ('Batteries Regulation')

The proposed suspension concerns Article 56(3):

"*A producer as defined in Article 3, point (47)(d) shall appoint an authorised representative for extended producer responsibility in each Member State in which it sells batteries. Such appointment shall be made by written mandate.*"

A 'producer' as defined in Article 3(47), point (d), sells batteries by means of distance contracts directly to end-users, whether or not they are private households, in a Member State, and is established in another Member State or in a third country.

The Regulation is applicable since 18 February 2024, with the exception of certain specified rules.

(b) Regulation 2025/40 on packaging and packaging waste ('PPWR')

The proposed suspension concerns Article 45(3):

"*A producer referred to in Article 3(1), point (15)(c) and (d), shall appoint, by written mandate, an authorised representative for the extended producer responsibility in each Member State where the producer makes packaging or packaged products available for the first time, other than the Member State where the producer is established. Member States may provide that producers established in third countries shall appoint, by written mandate, an authorised representative for the extended producer responsibility when making packaging or packaged products available on their territory for the first time.*"

A 'producer' as defined in Article 3(1)(15), points (c) and (d), is established in a Member State or in a third country and makes available for the first time on the territory of another Member State, directly to end users, (c) transport packaging, service packaging or primary production packaging, whether as single-use packaging or as reusable packaging; and (d) products packaged in packaging other than those referred to in point (c).

The Regulation will become applicable on 12 August 2026, with the exception of certain specified rules.

(c) Directive 2008/98/EC on waste ('WFD')

The proposed suspension concerns Article 22a(3):

"*Member States shall ensure that a producer as defined in Article 3(4b), point (d), established in another Member State and making textile, textile-related or footwear products listed in Annex IVc available for the first time on their territory appoints, by written mandate, a legal or natural person established on their territory as its authorised representative for the purpose of fulfilling*

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the obligations of a producer related to the extended producer responsibility scheme on their territory."

A 'producer' as defined in Article 3(4b), point (d), sells textile, textile-related or footwear products by means of distance contracts directly to end-users, whether or not they are private households, in a Member State, and is established in another Member State or in a third country.

The transposition deadline of the Directive's 2025 revision, which contains the suspended provision, is set for 17 June 2027.

(d) Directive 2012/19/EU on waste electric and electronic equipment ('WEEE Directive')

The proposed suspension concerns Article 17(2):

"*Each Member State shall ensure that a producer as defined in Article 3(1)(f)(iv) and established on its territory, which sells EEE to another Member State in which it is not established, appoints an authorised representative in that Member State as the person responsible for fulfilling the obligations of that producer, pursuant to this Directive, on the territory of that Member State."*

A 'producer' as defined in Article 3(1)(f), point (iv), sells EEE by means of distance communication directly to private households or to users other than private households in a Member State, and is established in another Member State or in a third country.

The latest modifications, in the form of the Amending Directive (EU) 2024/884, had to be transposed into national law by 9 October 2025.

(e) Directive 2019/904 on the reduction of the impact of certain plastic products on the environment ('SUP Directive')

The proposed suspension concerns Article 8(7):

"*Each Member State shall ensure that a producer established on its territory, which sells single-use plastic products listed in Part E of the Annex and fishing gear containing plastic in another Member State in which it is not established, appoints an authorised representative in that other Member State. The authorised representative shall be the person responsible for fulfilling the obligations of that producer pursuant to this Directive on the territory of that other Member State."*

Article 3(11) defines 'producer' as:

> (a) any natural or legal person established in a Member State that professionally manufactures, fills, sells or imports, irrespective of the selling technique used, including by means of distance contracts, and places on the market of that Member State single-use plastic products, filled single-use plastic products or fishing gear containing plastic, other than persons carrying out fishing activities; or
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> (b) any natural or legal person established in one Member State or in a third country that professionally sells in another Member State directly to private households or to users other than private households, by means of distance contracts, single-use plastic

products, filled single-use plastic products or fishing gear containing plastic, other than persons carrying out fishing activities.

The Directive had to be transposed into national law by 3 July 2021, with applicability for specific requirements in 2023 and 2024.

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Questions to Member States

1. *Given the different empowerments and obligations in sectoral legislation, do delegations agree with making the appointment of authorised representatives for EU-based producers voluntary in the following acts:*
    a. *Batteries Regulation?*
    b. *Packaging and Packaging Waste Regulation?*
    c. *Waste Framework Directive?*
    d. *WEEE Directive?*
    e. *SUP Directive?*

2. *In view of delegations' concerns about the possible impact on compliance, enforcement and the functioning of EPR schemes, would it be acceptable to target the suspensions by making the appointment voluntary only for small and medium enterprises (SMEs), therefore requiring appointed authorised representatives only from larger operators? Would further modulation of the suspensions be appropriate, if yes, based on which criteria?*

3. *Concerning the proposed timeline – a suspension of the obligation until 1 January 2035 – would delegations find a shorter suspension more agreeable, given the upcoming Circular Economy Act, expected in Q3 2026?*

4. *Would delegations agree that Member States should gain the flexibility to ensure enforceability and traceability towards third country producers through alternative means, or do delegations prefer to maintain the status quo with only the option to require the appointment of an authorised representative?*