





PRESIDENCIA  
ESPAÑOLA  
CONSEJO DE LA  
UNIÓN EUROPEA

Working Party on the Environment

# Packaging and Packaging

## Waste Regulation

14<sup>th</sup> July 2023

#EU2023ES

@eu2023es



# WPEs during PRES ES

Key  
issues

## PART 1

Cluster 1. Sustainability requirements

Cluster 3. Re-use

Cluster 7. Green Public Procurement

Deadline  
29<sup>th</sup> of JUNE

## PART 2

Cluster 5. General provisions including the legal basis

Cluster 2. Labelling

Cluster 7. Waste prevention

## PART 3

Cluster 6. Management of packaging waste

Cluster 8. Remaining obligations of economic operators

Cluster 9. Conformity

Cluster 10. Safeguard procedures

Cluster 11. Final Chapters

Part 2 & 3  
Deadline  
31<sup>st</sup> of JULY

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## 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 (Art.57))

### 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 7. 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)

### 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 (Chapter X-XII, Annexes XIII)

# Key issues to discuss on 14 July

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## Round 1

1. Definitions of  
“Service packaging” and  
“Recycled at scale”



## Round 2

3. Biobased plastics and  
home compostable  
packaging  
(Article 7 and 8)



## Round 3

4. Re-use and refill  
targets  
(Article 26)



## Round 4

5. Green Public  
Procurement  
(Article 57)



2. Substances in  
packaging and recyclable  
packaging  
(Article 5 and 6)



1. Definitions of  
“Service packaging” and  
“Recycled at scale”

# 'Service packaging'

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- **Definition Article 3(1)d:**

- The views of delegations concerning the proposed change in the definition of 'service packaging'.

*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:
  - i. Manufacturer, importer or distributors of (empty) service packaging, or
  - ii. 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 views of delegations concerning double possibility of responsibility according to definition of producer (Article 3 (10)) or prefer that the responsibility falls only on manufacturers, importers and distributors since there are fewer economic operators than those who fill and dispense the product with packaging service at point of sale.

# 'Recycled at scale'



- **Definition Article 3 (32):**

- If delegations can support the amendments made to the definition of 'Recycled at scale' Article 3(32) about conditions to be considered as follow:

## Proposal 3 (32)

(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 ~~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(5~~12~~);

~~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 it shall refer to average quantities over the last three years as reported according to Article 50(2).

(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).

## 2. Substances in packaging and recyclable packaging

Cluster 1  
Article 5 and 6

# Requirements for substances in packaging

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- **Article 5:**

- The views of delegations in clarification made on Article 5 (1b.b) as follows:
- Proposal 5 (1b.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.**
- If the delegations would like a new provision, for exceptional cases, establishing that the Commission should present a proposal to restrict substances of concern (for example PFAS) in packaging, if an EU restriction in packaging under the REACH has not been adopted on duly time (in a new point c) in Article 5 (5)).

## Recyclable packaging

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- **Article 6:**

- If delegations can support the new proposed subparagraph in **Article 6(8)** about the assessment for integrated components:
- Proposal: The assessment shall also be done separately for integrated components that separate from each other through mechanical stress during transportation or sorting.

# CLUSTER 1. Summary

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- The views of delegations regarding the proposed changes on the definitions of “serving packaging” and “recycled at scale”
- The views of delegations regarding other definitions of cluster 1, proposed in REV 01, such as high-quality recycling, among others.
- Regarding “Article 5” the views of delegations about a clarification about paragraph 5 (1b.b) and a possible new provision, for restriction of substances of concern in packaging.
- Regarding “Article 6” the views of delegations about the change proposed.

# 3. Biobased plastics and home compostable packaging

Cluster 1  
Article 7 and 8

# Biobased plastics and home compostable packaging

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- **Article 7:**

Which options do delegations prefer regarding biobased plastics?

Proposed options:

- **Option A:** No 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.
- **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 objectives should be reviewed if this choice is preferred.
- **Option D:** to exempt them from art 7, meaning that packaging made from biobased plastics do not have to fulfil the requirements in minimum percentage of recycled content.

In any case, biobased plastics shall meet strict sustainability criteria, which are yet to be developed.

# Home compostable packaging

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- **Article 8 and related definitions (Article 3):**
- The views of the delegations concerning:
  - **8 (1):** 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.
  - **3 (41) (41a):** The definitions of compostable packaging (Article 3(41)) and home compostable packaging (Article 3(41a)).
  - **8 (5a):** New paragraph (5a) in order to ensure timely and appropriate standardisation.

# CLUSTER 1. Summary

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- Regarding “Article 7” the views of delegations about biobased plastic approach.
- Regarding “Article 8” the views of delegations about the inclusion of home composting.

# 4. Re-use and refill

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Cluster 3  
Article 25, 26 y 27

## Refill obligations

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- **Article 25:**

- The views of delegations about a percentage of minimum sales area of at least 400m<sup>2</sup> 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.

## Re-use and refill targets

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- **Article 26:**

- The views of the delegations about:

- **A separated accountability and targets** for reuse and refill and if data collection would be affordable for final distributor and other economic operators.

## Re-use and refill targets

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- **Article 26:**

- If delegations could accept a definition of 'take away' as proposed above. Does this definition provide legal certainty to Article 26(2) and 26 (3)?

Draft definition: *'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;*

# Re-use and refill targets

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- **Article 26:**

- The views of delegations about:

- In favour or against the inclusion of wine sector within the scope of the reuse targets and how,

## Calculating of re-use and refill targets

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- **Article 27:**

- 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" (e.g. 0,5 litres or other to be discussed).

# CLUSTER 3. Summary

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- The views of delegations about a separated accountability and targets for reuse and refill.
- The views of delegations about a percentage of minimum sales area for refill systems.
- The views of delegations about including a definition of 'take away'.
- 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".

# 5. Green Public Procurement

Cluster 7  
Article 57

## Green Public Procurement

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- 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.



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¡Gracias!