

Review of packaging and packaging waste rules

Published by AGRINFO on 27 Jan 2023; Revised 05 Mar 2023

EU proposes revisions to packaging rules to encourage recycling and reduction of packaging.
WTO consultation

[Proposal](#) for a regulation of the European Parliament and of the Council on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC

Update

The EU has informed the World Trade Organization Technical Barriers to Trade (WTO TBT) Committee that it intends to revise its packaging rules. This supports the EU's target of ensuring all packaging is reusable or recyclable by 2030. The proposal sets out a long-term framework with increasingly ambitious measures over time. It includes sustainability requirements that will have to be met by exporters of packaged food products.

What is changing?

Scope

The Proposal regulates materials used for the containment or protection of all goods from raw materials to processed goods. This includes:

- sales packaging: packaging of goods sold to the final consumer
- grouped packaging: packaging that groups a number of products (for convenience) at the point-of-sale
- transport packaging: packaging that facilitates the handling and transport of products, including e-commerce packaging (does not include road, rail, ship or air containers).

Importer obligations

Importers must take corrective measures, including withdrawing or recalling products if necessary, when packaging placed on the market is not in conformity with the Regulation (Art. 16). When this occurs, they must also inform Member States' market surveillance authorities. When a national authority requests information, the importer must be able to provide it within 10 days, including technical documentation that demonstrates the packaging is in conformity with the Regulation's requirements.

Importers must ensure that food packaging:

- is compliant with sustainability requirements
- has undergone a conformity assessment
- is correctly labelled
- is accompanied by the correct documentation
- is correctly identified.

Sustainability requirements

All prepackaged food imported into the EU must fulfil the sustainability requirements set out in Arts. 5–10, including the following.

- Packaging must contain minimised concentration of substances of concern. The sum of concentration levels of lead, cadmium, mercury and hexavalent chromium must not exceed 100 mg/kg (Art. 5).
- By 2030, packaging must be recyclable (designed for recycling). The Commission will later adopt detailed rules on design requirements for each type of packaging material to determine what is considered recyclable (Art. 6). A list of unacceptable packaging characteristics is proposed in Annex II, part D.
- By 2030, plastic packaging must contain at least the minimum percentage of recycled plastic per unit of packaging set out in Table 1. More ambitious targets are set for 2040 (Art. 7).
- By 2030, packaging must be scaled down to its minimum size/weight, taking into account food safety and functionality (Art 9).
- Within 24 months of the Regulation's entry into force, sticky labels attached to fruit and vegetables must be compostable (Art. 8).

Conformity assessment procedure

The packaging manufacturer must complete an internal control procedure that ensures the sustainability requirements are met (Art. 33 and Annex VII). The packaging manufacturer must provide technical documentation that demonstrates conformity with the requirements, and draw up a declaration of conformity (which must be kept for 10 years after the packaging is placed on the market).

Labelling

The following must be included clearly, legibly and indelibly on packaging (within the stated period after the Regulation's entry into force):

- label on packaging material composition (within 42 months)
- label on packaging reusability and QR codes that give information on reusability and collection points, and help the tracking of materials (within 48 months)
- label on recycled content, where relevant.

The Commission will adopt further rules on specifications for labelling (Art. 11).

Documentation

The packaging manufacturer must establish technical documentation that will be passed on to importers, and can subsequently be controlled (requested) by Member State market surveillance authorities (Annex VI) for up to 10 years. Technical documentation must include:

- general description of the packaging and intended use
- conceptual design and manufacturing drawings and schemes of components, etc.
- descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the packaging
- list of:

(i) harmonised standards published in the Official Journal of the EU, applied in full or in part

(ii) common technical specifications – to be adopted by the Commission where there is no harmonised standard – applied in full or in part

(iii) other relevant technical specifications used for measurement or calculation

(iv) in the event of partly applied harmonised standards and/or common specifications, an indication of the parts that have been applied

(iv) a description of the solutions adopted to meet sustainability requirements in the event of harmonised standards and/or common technical specifications not being applied

- description of how recyclability, packaging minimisation and reusable packaging assessments have been carried out
- test reports.

Identification

Packaging manufacturers must ensure that packaging is identifiable. It must bear a type, batch or serial number allowing its identification, or this must be provided in a document accompanying the packaged product (Art. 13). Manufacturers must clearly indicate on the packaging, or on a QR code or other data carrier, their name, registered trade name or trade mark, postal address, and (where available) electronic means of communication where they can be contacted.

Restricted packaging formats

The proposal specifies a number of uses of packaging that will not be permitted. The most relevant ones to agri-food exporters are set out in Table 2 (Art. 22, Annex V).

Extended producer responsibility

Producers of packaging, including operators placing packaged food products on the EU market, have “extended producer responsibility” (Art. 40), a concept developed under waste legislation Directive [2008/98/EC](#). Member States must take measures to ensure that operators take responsibility for “strengthening the re-use and the prevention, recycling and other recovery of waste” (Art. 8). Most Member States have adopted such schemes to determine how packaging waste is collected, sorted and recycled, with the aim of meeting legal targets on waste ([EUROPEN 2021](#)). Under this proposal, each Member State must reduce packaging waste per capita by the targets of 5% (2030), 10% (2035) and 15% (2040) compared to 2018 levels (Art. 38).

The Commission requires producers/importers to appoint a representative for the extended producer responsibility in each Member State where it makes packaging available for the first time (Art. 40). Producers can entrust producer responsibility organisations to carry out these responsibilities on their behalf (Art. 41).

Reuse and refill obligations

Operators making use of reusable packaging must participate in systems for reuse (Annex VI). Table 3 summarises targets for the percentage of packaging that should be reusable or refillable for different products by 2030 (Art. 26). The Commission will develop rules for calculating the attainment of these targets (Art. 27). Operators will report to relevant competent authorities on these targets on an annual basis (Art. 28). When setting reporting requirements, Member States must take into account the particular problems facing SMEs in providing detailed data (Art. 50(8)).

Why?

Packaging is one of the main users of virgin materials and is a significant contributor to waste. Increased use of packaging in recent years has contributed to CO₂ emissions, biodiversity loss and pollution. The share of recycled packaging has grown significantly since 2012, but much recyclable packaging is not recycled in practice because suitable collection and recycling processes are not in place or are not economically viable (Commission Proposal, [Explanatory Memorandum](#)). This proposal is part of the [European Green Deal](#) agenda, which aims to cut greenhouse gas emissions while supporting economic growth.

The Commission proposes a Regulation because Member States have implemented the current packaging Directive 94/64/EEC in different ways, particularly in response to the challenge of plastic packaging. Diverging rules complicate the operation of the Single Market, and potentially jeopardise the effectiveness of EU efforts to improve packaging and tackle waste. The European Court of Justice found that certain Member States had failed to comply with various obligations of the Directive ([EPRS 2022](#)).

An evaluation study ([European Commission 2020](#)) identified the need to improve the essential requirements for packaging set in Directive 94/64/EC. In particular, it noted that the essential requirements no longer corresponded to the packaging technologies now available on the market, or to current environmental concerns. This study also highlighted ambiguities in the essential requirements, and a lack of clarity on which actors in the supply chain were responsible for packaging. It concluded that actively promoting improved packaging design could bring greater added value.

Timeline

Discussions on the Commission's proposal in the European Parliament and Council will start in the second quarter of 2023. The new rules are expected to apply in 2026.

What are the major implications for exporting countries?

- Packaging has to conform to essential requirements. The requirement for manufacturers to report on substances not previously reported could involve additional testing, bringing additional costs for operators (Commission, 2022).
- Technical documentation and conformity declaration, information that was previously not required, will now have to be collected and passed down the supply chain. This creates an additional administrative burden on suppliers of packaged food (Commission, 2022) including exporters in non-EU countries.

- When placing packaging, including packaged products, on Member State markets for the first time, operators will be required to assign an appointed representative for extended producer responsibility in each Member State where they sell. The Commission anticipates that the new rules will reduce administrative burdens on businesses by aligning currently divergent rules across EU Member States. But feedback on the proposal indicates that many small businesses have significant concerns about the obligation to register separately in each Member State (FoodDrink Europe 2022).
- The ban on single-use plastic packaging, single-use composite packaging or other single-use packaging for fresh fruit and vegetables less than 1.5 kg has been identified as problematic. The sector is dismayed that it is being singled out for specific treatment (Freshfel Europe 2022).
- The beverages sector has also raised concerns about the feasibility of reuse targets, and highlights the need for evidence that reuse, as proposed, will provide the desired environmental result (UNESDA 2022).
- SMEs may be concerned about reporting requirements. EU Member States will have responsibility to determine these requirements and any derogations (exceptions) for smaller operators, potentially leading to different requirements in different states.

Recommended Actions

Comments or concerns about potential impacts can be submitted via the [National TBT notification authority](#) of the country concerned to the EU [TBT Enquiry Point](#) before **28 May 2023**.

Under the current proposal, within 12 months of the Regulation's entry into force, exporters of packaged foods will have to ensure that:

- any packaging has undergone an appropriate conformity assessment procedure
- the relevant technical documentation has been drawn up by the packaging manufacturer
- the manufacturer has made a written declaration of conformity for the packaging type.

Suppliers exporting packaged foods should engage early with packaging manufacturers to review testing and monitoring processes. They should also assess current capacity to undertake conformity assessment and provide the technical documentation that is likely to be required (although the detail may change before the Regulation is finally adopted).

Suppliers of fruits and vegetables to the EU in individual packaging weighing less than 1.5 kg should explore alternatives to single-use plastics, and sources of non-compostable sticky labels.

Background

The current Directive [94/62/EC](#) aims to prevent packaging waste by reusing packaging, recycling and other forms of recovery. Reducing the final disposal of such waste contributes to the transition towards a circular economy. The Directive has been updated many times, incorporating requirements on plastic carrier bags (2015) and new recycling targets (2018).

Directive 94/62/EC establishes essential requirements related to the manufacturing and composition of packaging, its reusability and recoverability (Annex II).

Producers must be able to demonstrate compliance with these requirements. To do so, they can apply harmonised European (CEN) Subject Standards:

- EN 13427_2004: requirements for the use of European standards in the field of packaging and packaging waste – “umbrella standard”
- EN 13428_2004: prevention by source reduction
- EN 13429_2004: reusable packaging
- EN 13430_2004: material recycling
- EN 13431_2004: energy recovery.

When these standards are followed, producers are presumed to be in compliance with Directive 94/62/EC. Relevant national standards can also be used to demonstrate compliance where no harmonised standards exist.

Resources

EPRS (2022) [Briefing: Revision of Directive 94/62/EC on and Packaging Waste](#). European Parliamentary Research Service.

European Commission (2020) [Effectiveness of the Essential Requirements for Packaging and Packaging Waste and Proposals for Reinforcement](#).

European Commission (2022) [Staff Working Document accompanying the Proposal for a Regulation of the European Parliament and Council on packaging and packaging waste](#).

European Commission: [Questions & Answers on the Regulation on Packaging and Packaging Waste](#).

EUROPEN (2021) [Extended Producer Responsibility \(EPR\) for Used Packaging](#). European Organization for Packaging and the Environment

FoodDrink Europe (2022) [Commission's Packaging Proposal Includes Positive Aspects, but Major Concerns Remain](#).

Freshfel Europe (2022) [Freshfel Europe calls for sustainable & functional harmonized EU packaging rules for fresh fruit & vegetables without discriminatory measures.](#)

UNESDA (2022) [UNESDA statement on the publication of the revision of the proposal for the EU Packaging and Packaging Waste Regulation.](#) Union of European Soft Drinks Associations.

Sources

[Proposal](#) for a Regulation on packaging and packaging waste


Directive [2008/98/EC](#) on waste

Directive [94/62/EC](#) on packaging and packaging waste

Table & Figures

Table 1 Minimum percentage of recycled plastic per unit of packaging		
Type of packaging ¹	Minimum percentage recycled content	
	By 2030	By 2040
Contact-sensitive packaging ² with polyethylene terephthalate (PET) as the major component	30	50
Contact-sensitive packaging ² made from plastic materials other than PET, except single-use plastic beverage bottles	10	-
Single-use plastic beverage bottles	30	65
Other than the above	35	65


1 Certain sorts of packaging (e.g. certain medical packaging) do not have to fulfil these criteria.
2 Contact-sensitive packaging includes packaging that comes into direct contact with food.



www.agrininfo.eu

Source: Proposal for a regulation on packaging and packaging waste


Table 2 Restrictions on use of packaging formats most relevant to agri-food exports		
Packaging format	Restricted use	Example
Single-use plastic, grouped packaging	Plastic packaging used at retail level to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable end users to purchase more than one product (excludes grouped packaging to facilitate handling in distribution)	Collation films, shrink wrap
Single-use plastic packaging, single-use composite packaging or other single-use packaging for fresh fruit and vegetables	Single-use packaging for less than 1.5 kg fresh fruit and vegetables, unless there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards or physical shocks	Nets, bags, trays, containers
Single-use plastic, single-use composite packaging or other single-use packaging	Single-use packaging for foods and beverages filled and consumed within the premises in the food service sector, including all indoor and outdoor eating areas	Trays, disposable plates and cups, bags, foil, boxes



www.agrinfo.eu

Source: Proposal for a regulation on packaging and packaging waste, Annex V

Table 3 Reuse and refill targets for exports of agri-food products and those using transport packaging		
Type of product	Percentage of products to be made available in reusable packaging within a system for reuse or refill	
	Target from 1 Jan 2030 (%)	Target from 1 Jan 2040 (%)
Alcoholic beverages (other than wine)	10	40
Wine (except sparkling wine)	5	15
Non-alcoholic beverages	10	25
Economic operators using transport packaging		
Pallets, plastic crates, foldable plastic boxes, pails and drums	30	90
Pallet wrappings and straps for stabilisation; protection products put on pallets during transport	10	30



www.agrininfo.eu

Source: Proposal for a regulation on packaging and packaging waste, Annex VI

Disclaimer: *Under no circumstances shall COLEAD be liable for any loss, damage, liability or expense incurred or suffered that is claimed to have resulted from the use of information available on this website or any link to external sites. The use of the website is at the user's sole risk and responsibility. This information platform was created and maintained with the financial support of the European Union. Its contents do not, however, reflect the views of the European Union.*