

REGULATION ON PACKAGING & PACKAGING WASTE

A.I.S.E. recommended amendments

The following amendments were identified as **priority 1 for A.I.S.E.**

Commission proposal	A.I.S.E. suggestion	Comments
Article 3: Definitions		
(new)	3 (XX) <i>Pre-consumer plastic waste means plastic recovered from waste generated in a manufacturing process and subsequently processed by a reprocessing facility. It does not include scrap or regrind which can be reused in the process from which it was generated after only minimal reprocessing, for example shredding and grinding. Where waste material is recovered and requires reprocessing involving melting and extrusion into pellets at a reprocessing facility before it can be reused, it can be treated as recycled content for the purposes of Article 7 subject to appropriate certification such as EN ISO 14021. [new]</i>	<ul style="list-style-type: none"> Recycled content is defined exclusively as being “recovered from post-consumer plastic waste”. Considering the limited availability of high-quality secondary material, the proposed targets for non-contact sensitive materials are very ambitious. To account for the limited availability of high-quality materials, the proposal should also account for ‘pre-consumer plastic waste’. On this point, the current proposal is misaligned with the Agreement on International Carriage of Dangerous Goods by Road, ADR, which allows for the use of industrial packaging as recycled material for dangerous goods.
(new)	3 (XX) <i>Recycling means the use of physical and/or chemical processes (including depolymerisation), to recycle a waste stream into recycled materials that includes</i>	<ul style="list-style-type: none"> The recycled content targets within Article 7 will not be possible without early and explicit recognition of chemical recycling within legislative provisions to incentivise

	<p><i>an appropriate decontamination stage, where mechanical recycling is favoured as much as possible. This excludes the production of fuel from plastic.</i></p>	<p>the necessary investments from the chemical and recycling sector.</p> <ul style="list-style-type: none"> • Within the current proposal, 'recycling' is defined as laid down in Article 3 of the WFD (2008/98/EC). Whilst this does not explicitly exclude chemical recycling, it likewise does not explicitly include it as within the scope of the definition. This is creating delays in much needed investments to increase the EU's capacity in producing recycled plastics (while other regions like US and China are investing actively in this technology). • We fully agree that the recognition of chemical recycling should be in full respect of the waste hierarchy, and mechanical recycling should be favoured whenever possible.
<p>3 (22) 're-use' means any operation by which reusable packaging is used again for the same purpose for which it was conceived;</p>	<p>3 (22) 're-use' means any operation by which reusable packaging is used again for the same purpose for which it was conceived as part of a broader reuse system, with or without the support of auxiliary products, including refill- and dilute-at-home solutions;</p>	<ul style="list-style-type: none"> • It is of great importance that the definition and measurement of reuse and refill consider the wide variety of models existing in our industry such as in-store refill, refill at home as well as dilute at home options.
<p>3 (28) 'refill' means an operation by which an end user fills its own container, which fulfils the packaging function, with a product or several products offered by the final distributor in the context of a commercial transaction;</p>	<p>3 (28) 'refill' means an operation by which an end user fills its own container, which fulfils the packaging function, with a product or several products offered by the final distributor in the context of a commercial transaction;</p>	

Article 6: Recyclable packaging		
6(1) All packaging shall be recyclable.	6 (1) All packaging shall be recyclable from 1 January 2030.	<ul style="list-style-type: none"> While the text specifies that 6(2)(a) shall apply from 01 January 2030, and 6(2)(e), from 01 January 2035, clarity is needed on the time frames for the other aspects linked to the definition of recyclable packaging (6(1) and 6(2)(b), (c) & (d)). If this is with entry into force of the Regulation, this is inconsistent with the aligned objective of the Commission, Council and European Parliament that all packaging shall be recyclable by 2030. A confounding factor is the high variety in national capabilities that will not be resolved before 2025.
6(2) Point (a) shall apply from 1 January 2030 and point (e) shall apply from 1 January 2035.	6 (2) Points (a to d) shall apply from 1 January 2030 and point (e) shall apply from 1 January 2035.	
Article 7: Minimum recycled content in plastic packaging		
7(1) From 1 January 2030, the plastic part in packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per unit of packaging:	7 (1) From 1 January 2030, the plastic part in packaging, as described in categories 10 to 27 within table 1 of Annex II , shall contain the following minimum percentage of recycled content recovered from pre-consumer or post-consumer plastic waste, per unit of packaging:	<ul style="list-style-type: none"> The proposed recycled content targets for coated, fibre-based packaging would undermine the move towards minimised and recyclable packaging, as well as innovation for non-plastic packaging. Therefore, we call for a clear list of plastic packaging to be in scope of the recycled content targets, linked to the categories in Annex II of the proposal. Recycled content is defined exclusively as being “recovered from post-consumer plastic waste”. Considering the limited availability of high-quality secondary
7(2) From 1 January 2040, the plastic part in packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per unit of packaging:	7 (2) From 1 January 2040, the plastic part in packaging, as described in categories 10 to 27 within table 1 of Annex II , shall contain the following minimum percentage of recycled content recovered from pre-consumer or	

	<p>post-consumer plastic waste, per unit of packaging:</p>	<p>material, the proposed targets for non-contact sensitive materials are very ambitious. To account for the limited availability of high-quality materials, the proposal should also account for 'pre-consumer plastic waste'. On this point, the current proposal is misaligned with the Agreement on International Carriage of Dangerous Goods by Road, ADR, which allows for the use of industrial packaging as recycled material for dangerous goods.</p>
<p>Article 11: Labelling of packaging</p>		
<p>11(1) From [OP: Please insert the date = 42 months after the entry into force of this Regulation], packaging shall be marked with a label containing information on its material composition.</p>	<p>11 (1) From [OP: Please insert the date = 42 months after the entry into force of this Regulation] 36 months after the adoption of the implementing acts referred to in paragraph 5 and 6, packaging shall be marked with a label containing information on its material composition.</p>	<ul style="list-style-type: none"> • It is important to explicitly link the timing of the requirements from Article 11(1) and (2) to the publication of the respective implementing acts (Article 11(5)) in case there are delays in the publication of the latter. • We are fully supportive of the harmonisation of labelling and ask for this to be advanced in order to displace any national requirements.
<p>11(2) From [OP: Please insert the date = 48 months after the date of entry into force of this Regulation], packaging shall bear a label on packaging reusability and 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</p>	<p>11 (2) From [OP: Please insert the date = 48 months after the date of entry into force of this Regulation], 36 months after the adoption of the implementing act referred to in paragraph 5, packaging shall bear a label on packaging reusability and 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</p>	

<p>trips and rotations. In addition, reusable sales packaging shall be clearly identified and distinguished from single use packaging at the point of sale.</p>	<p>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.</p>	
<p>11(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.</p>	<p>11 (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.</p>	<ul style="list-style-type: none"> • We are fully supportive of the harmonisation of labelling and ask for this to be advanced in order to displace any national requirements.
<p>11(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 digital marking technologies.</p>	<p>11 (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 digital marking technologies.</p>	

Article 21: Obligation related to excessive packaging

<p>21(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 %.</p>	<p>21(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% minimised subject to the provisions within Part 1 and Part 2 of Annex IV.</p>	<ul style="list-style-type: none"> Seems it will not be possible to achieve for certain products specifically designed to fulfil a particular function, such as trigger bottles, that deviate significantly from an ideal cuboid / rectilinear shape which would optimise empty spaces. These products still need to be protected from physical risks during transport and a single metric for empty space ratio of 40% is too simplistic and disregards the design requirements that a packaging must satisfy to fulfil its main functionalities.
<p>21(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.</p>	<p>21 (2) For the purpose of this calculation, 'empty space' means: (a) with respect to sales packaging: the difference between the total volume of sales packaging and the total volume of goods in this packaging; (b) with respect to grouped packaging, transport packaging and e-commerce packaging: the difference between the total volume of grouped packaging, transport packaging or e-commerce packaging and the volume of sales packaging contained therein;</p> <p>'empty space ratio' means:</p>	<ul style="list-style-type: none"> The introduction of appropriate definitions of 'empty space' and 'empty space ratio' is an important consideration given the likely impact of the in Article 21 defined empty space ratio (i.e., 40%). Explicit consideration for non-standard shaped products (such as those with functional or ergonomic adaptations) is appropriate.

	<p>(a) <i>with respect to sales packaging: the ratio of the empty space as defined in point 21(2)(a) and of the total volume of the sales packaging;</i></p> <p>(b) <i>with respect to grouped packaging, transport packaging and e-commerce packaging – the ratio of the empty space as defined in point 21(2)(b) and the total volume of the grouped packaging, transport packaging or e-commerce packaging.</i></p> <p><i>Due consideration is necessary in respect of sales packaging with functional or ergonomic adaptations that result in non-regular or asymmetrical shapes that would otherwise impact the derived empty space ratios. Ratios based on external block dimensions of sales packaging, i.e. the maximal external measurements in three dimensions, are appropriate in such cases and require explicit documentation in any conformity assessment. [new]</i></p>	
<p>Article 26: Re-use and refill targets</p>		
<p>26(12) Transport packaging used by an economic operator shall be reusable where it is used for transporting products: (a) between different sites, on which the operator performs its activity; or</p>	<p>26 (12) From 1 January 2030, Ttransport packaging used by an economic operator shall be reusable where it is used for transporting products:</p>	<ul style="list-style-type: none"> • Clarity is needed regarding the time frames of the requirements laid down in paragraphs 12 and 13 of Article 26. If the timing of these provisions is entry into

<p>(b) between any of the sites on which the operator performs its activity and the sites of any other linked enterprise or partner enterprise, as defined in Article 3 of the Annex to Commission Recommendation 2003/361, as applicable on [OP: Please insert the date = the date of entry into force of this Regulation].</p> <p>This obligation applies to pallets, boxes, excluding cardboard, trays, plastic crates, intermediate bulk containers, drums and canisters, of all sizes and materials, including flexible formats.</p>	<p>(a) between different sites, on which the operator performs its activity; or (b) between any of the sites on which the operator performs its activity and the sites of any other linked enterprise or partner enterprise, as defined in Article 3 of the Annex to Commission Recommendation 2003/361, as applicable on [OP: Please insert the date = the date of entry into force of this Regulation].</p> <p>This obligation applies to pallets, boxes, excluding cardboard, trays, plastic crates, intermediate bulk containers, drums and canisters, of all sizes and materials, including flexible formats.</p>	<p>force, the requirements for transport packaging to be 100% reusable between different sites of an economic operator, or between economic operators between the same Member State, adds significant ambition that is unrealistically achievable. Of particular concern in respect of Article 26(13) is the fact that a different standard would apply for intra-member state shipments compared to inter-member state shipments. This could be seen as a barrier to domestic trade versus pan-EU trade especially where it would introduce a ‘reverse logistics’ burden for empty packaging. We suggest for these targets to be aligned with the other targets on reuse and to apply from 01 January 2030.</p>
<p>26(13) Economic operators delivering products to another economic operator within the same Member State shall use only reusable transport packaging for the purpose of the transportation of such products.</p> <p>This obligation applies to pallets, boxes, excluding cardboard, plastic crates intermediate bulk containers, and drums, of all sizes and materials, including flexible formats.</p>	<p>26 (13) From 1 January 2030, Eeconomic operators delivering products to another economic operator within the same Member State shall use only reusable transport packaging for the purpose of the transportation of such products.</p> <p>This obligation applies to pallets, boxes, excluding cardboard, plastic crates intermediate bulk containers, and drums, of all sizes and materials, including flexible formats.</p>	