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| PACKAGING PACKAGING WASTE REGULATION | |
| A.I.S.E. position on priorities for trialogue negotiations Mar. 30 January 2024 |  |

Please find below an overview of A.I.S.E.'s main priorities in relation to the positions of the co-legislators and their adopted texts, now under trilogue negotiations. Marked in green the text that we support, in red what we do not support. ***You can also find an additional column on the right reporting A.I.S.E. position on the basis of the inputs received.***

* **Key priorities**

1. **Composite packaging: Article 3 (19)** definition of‘*composite packaging’* definition; **Article 7 (4)** composite packaging/plastics parts in packaging
2. **Recyclability: Article 3 (1 point 31 a)** definition of*‘recyclability’*
3. **Requirements for substances in packaging: Article 5 (1)** inclusion of microplastics impact
4. **Recyclable packaging: Article 6 (2.2)** timeline of recycling and recyclability at scale criteria**; Article 6 (7. a)** closed loop recycling system
5. **Minimum recycled content in plastic packaging: Article 7 (1)** composite packaging/plastics parts in packaging**; Article 7 (7)** PCR content requirement
6. **Packaging minimisation: Article 9[[1]](#footnote-2)** packaging standardisation (EP Report: Art. 9.2 a new ; Council GA: Art. 9 para 4 a new)
7. **Obligation related to excessive packaging: Article 21 (1)** empty space ratio
8. **Re-use and Refill targets: Article 26 (12 & 13)** reusable transport packaging
9. **COMPOSITE PACKAGING**

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| **Article 3 para 1 (point 19) - Definition of ‘*composite packaging*’** | | | |
| **COM Proposal**  ‘composite packaging’ means a unit of packaging made of two or more different materials, excluding materials used for labels, closures and sealing, which cannot be separated manually and therefore form a single integral unit; | **EP Mandate**  ‘composite packaging’ means a unit of packaging made of two or more different materials, excluding materials used for labels, ***coatings, lining, varnishes, paints, inks, adhesives, lacquers,*** closures and sealing ***which are part of the weight of the main packaging material***, which cannot be separated manually and therefore form a single integral ***unit, unless a given material constitutes an insignificant part of the packaging unit and in no case more than 10% of the total mass of the packaging*** unit ; | **Council Mandate**  ‘composite packaging’ means a unit of packaging made of two or more different materials, excluding materials used for labels, closures and sealing, which cannot be separated manually and **which** therefore form a single integral unit; | **A.I.S.E. position**  Support EP position as the text proposes a more comprehensive and complete definition of composite packaging |
| **Article 7 para 4 – composite packaging/plastics parts in packaging** | | | |
| **COM Proposal**  Paragraphs 1 and 2[[2]](#footnote-3) shall not apply to compostable plastic packaging. | **EP Mandate**  Paragraphs 1 and 2 shall not apply to***:***  ***(a)*** compostable plastic packaging ;  ***(b) inks, adhesives, paints, varnishes and lacquers used on packaging ;***  ***(c) any plastic part representing less than 5% of the total weight of the whole packaging unit***. | **Council Mandate**  ***deleted*** | **A.I.S.E. position**  Support EP position on exemptions from targets on minimum recycled content |

1. **RECYCLABILITY**

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| **Article 3 para 1 (point 31 a) – Definition of ‘ *recyclability*’** | | | |
| **COM Proposal** | **EP Mandate**  ***'recyclability' means the assessment of the compatibility of packaging with the management and processing of waste by design, based on separate collection, sorting in separate streams, recycling at scale, and use of recycled materials to replace primary raw materials in new packaging;*** | **Council Mandate**  **‘recyclability’ means the gradual suitability of any given packaging that is designed for recycling and leads to, after being recycled at scale, sufficient quality compared to the original material to substitute primary raw material.** | **A.I.S.E. position**  Support Council position on recyclability definition, ensuring an open loop for recycling |

1. **REQUIREMENTS FOR SUBSTANCES IN PACKAGING**

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| **Article 5 para 1 – inclusion of microplastics impact** | | | |
| **COM Proposal**  Packaging shall be so manufactured that the presence and concentration of substances of concern as constituents of the packaging material or of any of the packaging components is minimised, including with regard to their presence in emissions and any outcomes of waste management, such as secondary raw materials, ashes or other material for final disposal. | **EP Mandate**  Packaging shall be so manufactured that the presence and concentration of substances of concern as constituents of the packaging material or of any of the packaging components is minimised, including with regard to their presence in emissions and any outcomes of waste management, such as secondary raw materials, ashes or other material for final disposal***, and the adverse impact on the environment due to micro-plastics***. | **Council Mandate**  Packaging **placed on the market** shall be so manufactured that the presence and concentration of substances of concern as constituents of the packaging material or of any of the packaging components is minimised, including with regard to their presence in emissions and any outcomes of waste management, such as secondary raw materials, ashes or other material for final disposal. | **A.I.S.E. position**    **Against EP position including minimisation of substances due to microplastics** |

1. **RECYCLABILE PACKAGING**

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| **Article 6 para 2 sub 2 – timeline of recycling and recyclability at scale criteria** | | | |
| **COM Proposal**  Point (a) shall apply from 1 January 2030 and point (e) shall apply from 1 January 2035[[3]](#footnote-4). | **EP Mandate**  *~~Point (a)~~* ***Points (a) to (d)*** shall apply from *~~1 January 2030~~* ***36 months after the date of publication of the delegated acts referred to in paragraph 4*** and point (e) shall apply from *~~1 January 2035~~* ***36 months after the date of publication of the delegated acts referred to in paragraph 6***. | **Council Mandate**  **2a**. **Paragraph 2,** point (a)**,** shall apply from 1 January 2030 ~~and~~ **or two years after the date entry into force of the implementing act referred to in paragraph 4, whichever is the latest.**  **Paragraph 2,** point ~~(e)~~**~~(~~b)[[4]](#footnote-5),** shall apply from 1 January 2035 **or five years after the date entry into force of the implementing act referred to in paragraph 6, whichever is the latest**. | **A.I.S.E. position**  Support Council position on the timeline setting design of recycling criteria by 2030 and recyclability at scale criteria by 2035 |
| **Article 6 para 7 a – closed loop recycling system** | | | |
| **COM Proposal** | **EP Mandate**  ***a. Where proven to be environmentally beneficial and technically feasible, Member States may, especially through design of schemes established in compliance with Article 44, prioritise recycling of packaging so that it can be subsequently recycled and used in the same way or for a similar application, with minimal loss of quantity, quality or function, whereby producers obliged to meet recycled content targets can benefit from fair access to the material derived from the recycled packaging.*** | **Council Mandate**  No proposal on closed loop  recycling system | **A.I.S.E. position**  Against having a closed loop recycling-system as  (only in the EP text) |

1. **MINUMUM RECYLCED CONTENT IN PLASTIC PACKAGING**

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| **Article 7 para 1 – composite packaging/plastics parts in packaging** | | | |
| **COM Proposal**  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: | **EP Mandate**  From 1 January 2030, the plastic part in packaging ***placed on the market*** shall***, unless this results in non-compliance with food safety requirements laid down at Union level,*** contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, ~~per~~ *~~unit of packaging~~* ***packaging format as referred to in Table 1 of Annex II, calculated as an average per manufacturing plant, per year***: | **Council Mandate**  ~~From~~ **By** 1 January 2030 **or three years after the date into force of the implementing act referred to in paragraph 7**, **whichever is the latest, any** ~~the~~ plastic part ~~in~~ **of** packaging **placed on the market,** shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per ~~unit of packaging~~ **packaging type and format as referred to in Table 1 of Annex II, manufacturing plant and year:** | **A.I.S.E. position**  Support EP position on ensuring minimum recycled content to the packaging should apply to the packaging as a whole and not to each individual part |
| **Article 7 para 7 – PCR content requirement** | | | |
| **COM Proposal**  By 31 December 2026, the Commission is empowered to adopt implementing acts establishing the methodology for the calculation and verification of the percentage of recycled content recovered from post-consumer plastic waste, per unit of plastic packaging, and the format for the technical documentation referred to in Annex VII. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). | **EP Mandate**  By 31 December 2026, the Commission *~~is empowered to adopt implementing acts~~* ***shall adopt delegated acts in accordance with Article 58 in order to supplement this Regulation by*** establishing the methodology for the calculation and verification of the percentage of recycled content recovered from post-consumer plastic waste*, ~~per unit of plastic packaging~~,* and the format for the technical documentation referred to in Annex VII. Those *~~implementing~~ delegated* acts shall *~~be adopted in accordance with the examination procedure referred to in Article 59(3)~~* ***take into account the environmental impact of the recycling process.*** | **Council Mandate**  By 31 December 2026, the Commission ~~is empowered to~~ **shall** adopt implementing acts establishing the methodology for the calculation and verification of the percentage of recycled content ~~recovered from post-consumer plastic waste, per unit of plastic packaging~~ **referred to in paragraphs 1 and 2 of this Article**, and the format for the technical documentation referred to in Annex VII**. When adopting the implementing acts, the Commission shall assess, in view of the available recycling technologies, their economic and environmental performance, including the quality of the output, the availability of the waste, the energy needed and greenhouse gas emissions. On the basis of that assessment, the Commission may include sustainability criteria for the recycling technologies in the methodology established in the implementing act under the previous subparagraph**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3). | **A.I.S.E. position**  In support of using a total PCR calculation method where possible. |

1. **PACKAGING MINIMISATION**

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| **Article 9 – packaging standardisation** | | | |
| **COM Proposal** | **EP Mandate**  **(Article 9 para 2 new a)**  ***By ... [OP: Please insert the date = 36 months from the date of entry into force of this Regulation], the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. For most common packaging types and formats such standards should specify maximum adequate weight and volume limits, and, if appropriate, wall thickness and maximum empty space.*** | **Council Mandate**  **(Article 9 para 4 new a)**  **By … [12 months from the entry into force of this Regulation] the Commission shall request the European standardisation organisations to prepare or update, as appropriate, harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. For certain most common packaging types and formats the Commission shall request that those standards should specify maximum adequate weight and volume limits, and, if appropriate, wall thickness and maximum empty space.** | **A.I.S.E. position**  Against any provisions on packaging standardization |

1. **OBLIGATION RELATED TO EXCESSIVE PACKAGING**

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| **Article 21 para 1 – empty space ratio** | | | |
| **COM Proposal**  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 %. | **EP Mandate**  ***By 1 January 2030,*** 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 in line with the provisions laid down in Part 1 of Annex IV, unless it is required to protect and transport fragile goods or it would lead to an increased amount of packaging material due to the specific shape of the product or sales packaging.*** | **Council Mandate**  ~~Economic operators who supply products to a final distributor or an end user~~ **By 1 January 2030, or 36 months after the entry into force of the delegated acts adopted pursuant to the second sub-paragraph, whichever is the latest, economic operators who fills the packaging** in grouped packaging, transport packaging or e-commerce packaging, shall ensure that the empty space ratio is maximum **50 %.**  **By 3 years after the entry into force of this Regulation, the Commission is empowered to adopt implementing acts in accordance with Article 58 to establish the methodology for the calculation of the empty space ration set out in paragraph 1.The methodology shall take into account the special characteristics of packaging which needs to be placed in an empty space large enough to comply with applicable legal requirements or to protect the product, in particular concerning packaged products of irregular shapes, packaging containing more than one sales packaging or product, packaging containing liquid products, packaged products the content of which can easily be damaged, packaged products that can be damaged by larger products due to their small dimensions, and the minimum space on the transport packaging to enable attachment of the shipment labels** ~~40 %.~~ | **A.I.S.E. position**  Support EP position on deletion of the empty space ratio |

1. **RE-USE and REFILL TARGETS**

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| **Article 26 para 12 & 13 – reusable transport packaging** | | | |
| **COM Proposal**  12. Transport packaging used by an economic operator shall be reusable where it is used for transporting products:  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. | **EP Mandate**  12. ***From 1 January 2030, 95% of the*** transport packaging used by an economic operator shall be reusable where it is used for transporting products:  13. ***From 1 January 2030,*** economic operators***, including online platforms,*** 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. | **Council Mandate**  12. ~~Transport packaging used by an~~ Economic ~~operator shall be reusable where it is~~ **operators using transport packaging or sales packaging** used for transporting products~~:~~  13. Economic operators ~~delivering~~ **using transport packaging or sales packaging used for transportation to deliver** products to another economic operator within the same Member State ~~shall use only reusable transport~~ **ensure that such** packaging ~~for the purpose of the transportation of such products~~ **is reusable within a system for re-use**. | **A.I.S.E. position**  **Support EP position:**  Date of application: necessary transitional period for reusable transport packaging  Targets: More flexibility for reusability targets of packaging |

1. [↑](#footnote-ref-2)
2. Article 7 para 1 and 2 set out targets from January 2023 (Para 1) and January 2040 (Para 2) of minimum percentage of recycled content recovered from post-consumer plastic waste per unit of packaging [↑](#footnote-ref-3)
3. *EU COM original proposal* - Point a : recycling criteria shall apply from 1 January 2030 ; Point e: recyclability at scale shall apply from January 2035 [↑](#footnote-ref-4)
4. *Council Mandate* - Point a : recycling criteria shall apply from 1 January ; Point b: recyclability at scale shall apply from January 2035 [↑](#footnote-ref-5)