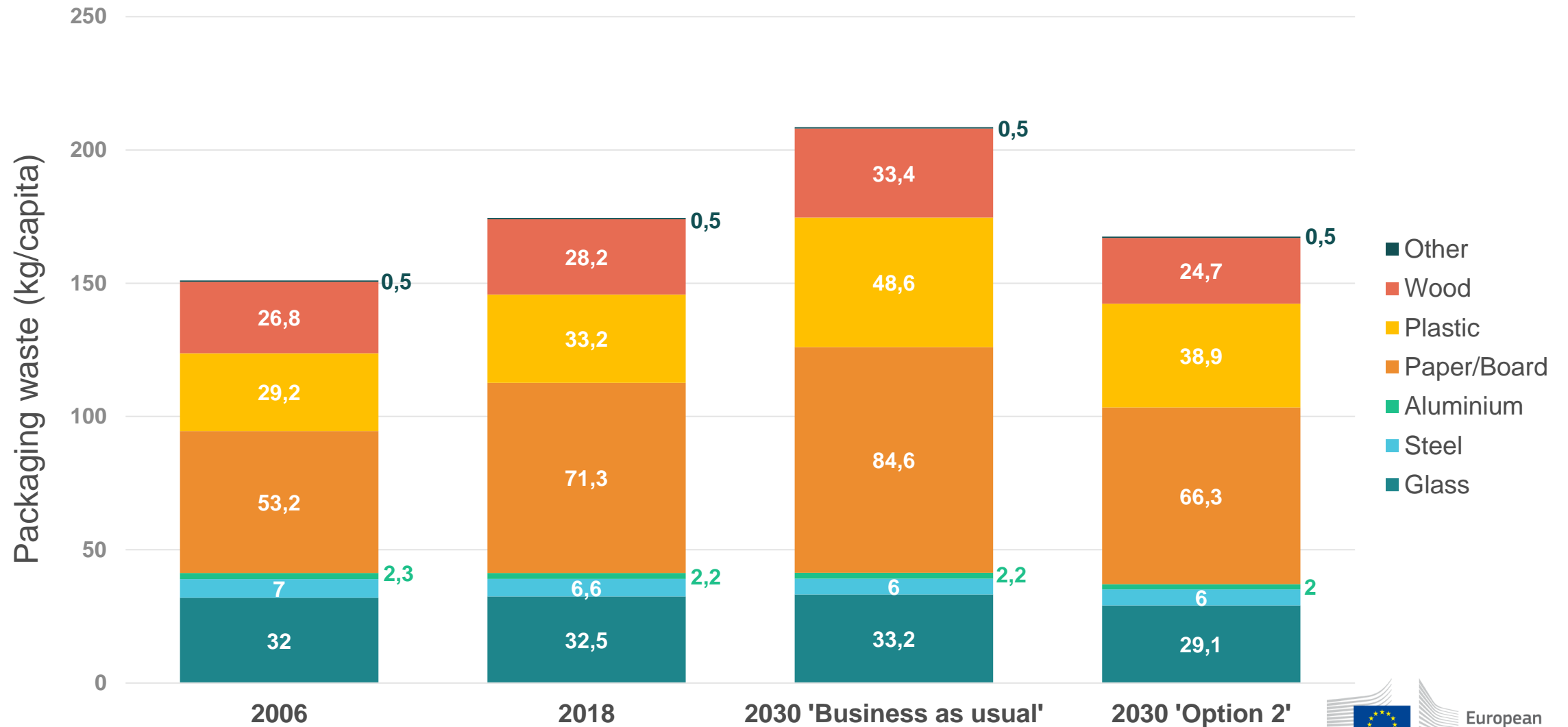


Proposal for a Regulation on Packaging & Packaging Waste

Maja Desgrées du Loû

DG Environment
Directorate Circular Economy
Unit B3: From Waste to Resources



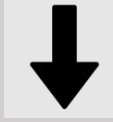
Packaging Waste Generation is Rising



Recyclability of packaging – problems

- Increased use of packaging **design features that inhibit recyclability** (v. lightweighting) over the past 20 – 30 years
- The current essential requirements allow to **design packaging for energy recovery**; In 2018, 15% of PW went to incineration and 19% was landfilled
- There is **no clear definition** of recyclable packaging (i.e. current ER are unenforceable); according to some studies, only 14% of plastic packaging is effectively recycled (Systemiq) while according to Plastics Recycler's Europe, 44% of plastic packaging has design issues that make it unrecyclable
- **Some Member States are likely to have problems meeting the 2018 increased recycling targets**, in particular for plastic packaging (Early Warning Reports)
- **Design improvements** leading to more recyclability **are unlikely**, where changes require significant investments in R&D or recycling technology
- There are **no harmonised EPR fee modulation criteria**, while there is a 'new' obligation to modulate EPR fees (2018 revision of PPWD)
- Some **Member States/industry have come up with their own concepts** and assessment procedures/criteria: **problems for the Internal Market**

Intervention logic

 Drivers	Market failures <ul style="list-style-type: none"> - Externalities and fragmented market - Information failures (unclear labelling) - Suboptimal market structure along the waste value chain 	Regulatory failures <ul style="list-style-type: none"> - Delayed / incorrect transposition of current Directive - Essential Requirements poorly designed, unenforceable, and unevenly applied - Difficulties of the Member States to ensure compliance with national recycling targets - SUPD and ORD only cover plastic packaging, and this partly
 Problems (highly interrelated)	High level of and growing packaging waste: <ul style="list-style-type: none"> - High levels of avoidable packaging - Increasing single use packaging 	Barriers to packaging circularity: <ul style="list-style-type: none"> - Packaging design features that inhibit recycling - Cross contamination of compostable recycling stream - Reuse systems not cost efficient - Inconsistent and confusing labelling
 Consequences	Environmental impacts <ul style="list-style-type: none"> - Climate impacts - Littering - Landfill / incineration / export at end life - Presence of hazardous substances 	Economic impacts <ul style="list-style-type: none"> - Inefficient use of resources - High costs of packaging - Inefficient and costly waste management
 Objectives	General objective to reduce negative environmental impacts of packaging and packaging waste and improve the functioning of the internal market Specific objectives to meet this general objective is: <ol style="list-style-type: none"> 1. Reduce the generation of packaging waste 2. Promote a circular economy for packaging in a cost-efficient way 3. Promote the uptake of recycled content in packaging 	

Regulation with internal market legal basis

- **Directive 94/62/EC** on packaging and packaging waste
 - Article 114 TFEU
 - But: unenforceable essential requirements, hence ineffective
 - Obligations on the Member States have lead to market failures
- **Regulation** on packaging and packaging waste
 - Article 114 TFEU: no change
 - Modernise and reinforce requirements
 - Directly applicable and enforceable requirements on packaging and on economic operators
 - Further harmonisation of requirements on extended producer responsibility. MS targeted in rules on collection and targets for reuse and recycling, targets unchanged.
 - Avoids issues due to delayed or incorrect transpositions by the MS

Core Measures in the Proposal

Prevention and Reuse

Obligations on Member States

- **Art. 38: Waste prevention target** on MS to reduce packaging waste compared to 2018 by:
 - - 5% by 2030;
 - - 10% by 2035
 - - 15% by 2040
 - Specific review clause (8y)
 - MS may go beyond the min. requirements
- **Art. 45:** Obligations on MS to take measures that encourage **re-use and refill**

Harmonized measures on economic operators

- **Waste Prevention:**
 - Minimisation of and restrictions on excessive packaging (Art. 9, 21)
 - Avoiding unnecessary packaging (Art. 22; Annex V)
- **Re-use**
 - Reusable packaging (Art. 10)
 - Supporting the establishment of efficient reuse and refill systems (Art 23 – 25, Annex VI)
 - Sector specific reuse targets on economic operators (Art. 26)

Core Measures in the Proposal

Prevention and reuse – Packaging minimisation (Art. 9 and 21)

Article 9

- Requirement for placing packaging on the market:
- packaging has to be designed so that its weight and volume are minimal in relation to its function
- This will be assessed based on 'performance criteria' set out in Annex IV, which have been revised to exclude consumer acceptance and marketing
- Exception for packaging design subject to protected geographical indication or origin
- Prohibition of misleading packaging (double walls, false bottoms...)
- Packaging material to be taken into account in the assessment
- Reusable packaging nature to be taken into account

Article 21

Empty space limit for e-commerce, transport and grouped packaging (empty space ratio max. 40 %)

Core Measures in the Proposal

Prevention and reuse – Ban on unnecessary packaging (Art. 22 and Annex V)

- Economic operators shall not place on the market packaging in the formats and for purposes listed in Annex V – requirement applicable 12 M after the entry into force of the Regulation
- Special treatment for SU packaging of food and beverages consumed *in situ* in terms of:
 - date of application (1/1/2030)
 - possibility for exemptions by MS for micro-companies (COM Recommendation 2003/361) and where it is not technically feasible (e.g. no access to re-use infrastructure)
- Possibility for the Commission to adopt delegated acts to amend Annex V

Annex V

- SU plastic grouped packaging (cat. 1)
- SU packaging for F&V (cat. 2)
- SU packaging for food and beverages in case of *in situ* consumption (cat. 3)
- SU miniature packaging (cat. 4 and 5)

Core Measures in the Proposal

Prevention and reuse – Requirements on reusable packaging

Art. 10: Requirements for placing reusable packaging on the market:

- conceived/developed/PoM to be reused/refilled and to accomplish as many trips or rotations as possible in normal conditions of use
- can be emptied/unloaded/refilled without damage to packaging, packaged goods and in compliance with all the related hygiene and safety rules
- can be reconditioned (Annex VI, Part B)
- Is recyclable at the end of its life

Art. 23: obligations on EO who place reusable packaging on the market to ensure that there is a system for re-use (to be evidenced in the tech. documentation)

Art. 24 systems for re-use shall comply with Annex VI, Part A

Art. 25: obligations on EO related to refill:

- Informing consumers about conditions of use and hygiene requirements
- Refill stations compliant with Annex VI, Part C
- If packaging is offered – it is not free of charge

Part 1: Reuse/refill targets on economic operators (Art 26)

Sector	Packaging type -	Packaging groups and products // obligated economic operator	Target for 2030 [2040]
Food and beverage- HoReCa	Primary - B2C	Beverage (cold and hot) filled into a container at the point of sale for take-away , to be sold in packaging within a system for re-use or refill = final distributor	20% [80%]
	Primary-B2C	Food for take-away , to be sold in packaging within a system for re-use or refill = final distributor	10% [40%]
Food and beverage-Retail	Primary-B2C	Alcoholic beverages other than wine, aromatised wine products, fruit wine and spirits , and products based on wine, spirits or other fermented beverages mixed with non-alcoholic beverages, to be sold in packaging within a system for re-use or refill = manufacturer and final distributor	10% [25%]
	Primary B2C	Wine other than sparkling wine to be sold in packaging within a system for re-use or refill = manufacturer and final distributor	5% [15%]
	Primary-B2C	Non-alcoholic beverages, such as water, soft drinks, juices , to be sold in packaging within a system for re-use or refill = manufacturer and final distributor	10% [25%]
	Tertiary-B2B	Large household appliances e.g., washing machines or fridges, to be sold in reusable packaging = ec. operator	90% [90%]
Commercial and Industrial	Tertiary-B2B	Goods sold using pallets, crates, foldable boxes, pails and drums for the conveyance or packaging of the goods, to be sold in reusable packaging = ec. operator using transport packaging	30% [90%]
	Tertiary-B2B	Non-food goods sold via e-commerce using packaging for transport and delivery, to be sold in reusable packaging = ec. operator using transport packaging	10% [50%]
	Tertiary-B2B	Pallet wrappings and straps for stabilization and protection of goods during transport , to be sold in reusable packaging = ec. operator using transport packaging	10% [30%]
	Tertiary-B2B	Grouped packaging boxes (excl cardboard) e.g., pack of larger quantities of packaging units used, outside of sales packaging to group a certain number of goods to create a stock-keeping packaging	10% [25%]

Core Measures in the Proposal

Part 2: Reuse and refill targets: Art. 26, 27 and 28

- **General exemption** for:
 - micro-companies
 - EO placing less than 1000 kg of packaging on the market
 - For EO with a sales area less than 100 m² (this exemption applies only for beverages and food targets)
- **Empowerment on the COM** to **adopt DAs** to establish:
 - Targets for other products
 - Exemptions for other EOs
 - Exemptions for specific packaging formats covered by the targets (for hygiene, food safety or environmental issues)
- Specific review clause: 8 years after the entry into force
- **Calculation of the targets**
- based on the number of sales or equivalent units in calendar year (Art. 27, 28) => Implementing act by 2028

Core Measures in the Proposal

Full recyclability of all packaging by 2030 (Art. 6)

- **As of 2030**, all packaging items have to be recyclable, and to that end meet the **design for recycling** criteria, to be established in a delegated act (DA).
- **As of 2035**, ensuring “recycling at scale”; the methodology to measure it established via a DA.
- **COM empowered to adopt DAs** to establish:
 - DfR criteria based on state-of-the art infrastructure and covering all packaging components
 - Performance grades (based on Annex II) from A-E; Grade E means that such packaging cannot be PoM
 - Rules on the modulation of EPR fees based on recyclability performance grade and recycled content for plastic packaging
- **Exemptions** for:
 - Innovative packaging (5 years from PoM)
 - Pharmaceutical packaging and medical devices (until 2035)

Packaging is recyclable if:

- It is designed for recycling
- It is effectively and efficiently separately collected
- It is sorted into defined waste stream
- It can be recycled so that it results in secondary materials that can replace primary ones
- It can be recycled at scale (as of 2035)

Core Measures in the Proposal

Compostability of packaging (Art.8)

- **4 packaging formats** (tea and coffee bags, tea and coffee system single-serve unit, fruit and vegetable sticky labels and **very** lightweight plastic carrier bags) must be **compostable** so that this packaging can go together with the product into the bio-waste stream.
- All other containing packaging should go into material recycling.
- Lightweight plastic carrier bags, a significant market item, may be compostable in Member States where there is the respective infrastructure for collection of bio-waste and composting.
- COM empowerment for updating the list of items



Core Measures in the Proposal

Recycled content in plastic packaging (Art. 7)

- Realistic **minimum inclusion rates of recycled content in plastic packaging** (for 2030 and 2040) imposed **at product level** (monitored by market surveillance authorities of MS), distinguishing beverage bottles / contact sensitive / non-contact sensitive

Main inclusion rates of recycled content in plastic part of packaging		
Packaging	2030	2040
Plastic Beverage bottles	30%	65%
Contact sensitive packaging:		50%
PET as major component	30%	
Other than PET	10%	
Other plastic packaging	35%	65%



- Exemptions** for packaging for medicinal products, medical devices and compostable packaging
- EU harmonised **methodology for RC calculation** (by 2027)
- Commission empowered to review the targets for specific packaging types

=> 2030 targets **save app. 3 mio t fossil fuel** for plastic production

Recycled content in plastic packaging (Art. 7)

- Methodology for RC quantification to be come in IA by 2027
- Link of RC with EPR fees as of 2030 (for plastic packaging)
- Exemptions for compostable packaging and medicinal products & medical devices
- COM review by 2028 to review targets for specific packaging types and derogations
- General COM empowerment to review targets considering problems in market supply of recycled plastics for specific packaging types
- Review clause for potential RC in other packaging

Core Measures in the Proposal

Labelling (Art. 11 and 12)



- EU harmonised labels based on packaging material composition for packaging and waste receptacles to facilitate consumer sorting (i.e. Nordic pictograms)
- Harmonised label for packaging, for which **deposit and return systems** are mandatory, but possibility for MS to maintain/use their labels for EPR systems and for non-mandatory DRS systems (if not misleading as to recyclability or reusability)
- harmonized label and **QR code** for **reusable packaging** (collection points, tracking etc) + obligation to distinguish MU from SU at the point of sale
- harmonised criteria for (voluntary) labelling of **recycled content and bio-based packaging**
- COM to adopt **secondary legislation** on labelling requirements, incl. methodology for identifying composition by means of digital marking (18/24 M after the entry into force of the Regulation)
- Prohibition of **misleading and confusing labels** as regards sustainability requirements or waste management options for which there are harmonised labels
- **Single data carrier** for packaging and packed products to avoid multiplication of labels (e.g. if DPP is required under a product specific legislation)

Core Measures in the Proposal

Deposit Return Systems (Art. 43)

- **Member States shall:**
 - set up of **mandatory DRS for plastic bottles and cans** and possibility of exemptions for MS achieving 90% collection targets by other means in 2026 and 2027
 - endeavour to set up DRS for glass, beverage cartons and reusable packaging
 - ensure that return points for reusable packaging are accessible and available on equal terms as for SU packaging for which mandatory DRS shall be established
- DRS shall meet the minimum criteria in Annex X
- Labelling of mandatory DRS shall be harmonised
- Express possibility for MS to ‘go beyond” the minimum requirements without jeopardising the compliance with the Regulation/Treaty

Core Measures in the Proposal

Recycling targets and MS reporting

Articles 46, 47 and 48

- Recycling targets have not been modified compared to PPWD
- The possibility for derogation of up to 5 years still exists for 2025 targets
- Specific review clause: 8 years from the entry into force
- Express possibility for MS to go beyond the min. requirements if this is in compliance with this Regulation and the Treaty
- Rules on the calculation of the attainment of recycling targets have not been modified; some rules from Commission Decision 2005/270 taken into the Regulation (e.g. related to composite packaging or export of packaging waste)

Article 50

- MS shall report to the Commission (1 year after the entry into force of the Regulation):
 - ✓ Data on recycling of packaging waste and reusable packaging (no change)
 - ✓ Consumption of plastic carrier bags: separate reporting for VLPCBs, LPCBs, Thick PCBs and voluntary on Very Thick PCBs
 - ✓ Separate collection rate for 'mandatory DRS packaging formats'
 - ✓ As of 1/1/2028 for 'at scale' recycling methodology: for materials/types of packaging in Table 1 of Annex IX amounts of packaging: PoM, separately collected, recycling rates, installed capacities for sorting and recycling
- Reporting 19 M after the end of the calendar year
- Commission to adopt new Implementing Act replacing the old ones 24 M after the entry into force of the Regulation
- Transitional provisions (Art. 64) ensuring continuity of reporting

Core Measures in the Proposal

Extended Producer Responsibility (Art. 39 ff)

- Register to monitor compliance of producers of packaging
- Obligations on producers to register in each MS where they make packaging available on the market for the first time
- Harmonisation of EPR reporting granularity and frequency, to support MS reporting
- EPR obligations according to Art. 8 and 8a WFD and specific rules Art. 40 ff PPWR
- Rules on online operators in line with Digital Services Act
- Appointed representative for EPR in each MS where producer is making packaging available on the market