



Industry statement on the state of the PPWR negotiations

The European Commission's proposal on the Packaging and Packaging Waste Regulation (PPWR) has entered into the most important phase of negotiations, with the European Parliament, the Council and the European Commission working to find a compromise text that reflects their respective positions.

As negotiations proceed, policymakers should agree on effective and realistic measures for transport packaging, packaging minimisation and harmonised rules on labelling and sorting.

1. Transport packaging

Packaging for transporting goods in business-to-business (B2B) transactions are not the same as consumer-facing packaging, and the conditions for them to be reused differ. Policymakers should take into account the limitations that exist for both rigid and flexible packaging and how reuse can undermine companies' efforts to reduce carbon emissions.

Flexible transport packaging, like pallet wrappings and shrink wraps, provides stability, facilitates handling and protects goods from external elements during transport. These materials are also recyclable and increase recycling rates.

Additionally, protective packaging for fragile or heavy items such as home appliances is customised to offer shock-absorbing protection. This tailored protection remains around the product from manufacturer to consumer and is designed to match the unique shape and size of each product type, further safeguarding against harm or damage.

As highlighted by a recent joint industry statement,¹ these packaging formats' unique characteristics make them unsuitable for extensive reuse, as their protective properties degrade over time, compromising safety and efficiency.

Policymakers must consider these factors when setting reuse targets in Articles 26(1), 26(12) and 26(13) to avoid disruptions in the supply chain and ensure the reliability and safety of goods transport. Setting these targets necessitates a comprehensive environmental and economic impact assessment to determine whether reusable packaging offers the best overall environmental outcome compared to single-use solutions (paragraphs 14a and 15, rows 485b and 486, respectively). The European

¹ Joint industry statement calling for thoughtful and science-based reuse policies in the transport packaging sector, <https://plasticseurope.org/media/joint-industry-statement-calling-for-thoughtful-and-science-based-reuse-policies-in-the-transport-packaging-sector/>

Commission has yet to conduct such an evaluation to scrutinise the real-world costs and environmental benefits or drawbacks of reusable packaging.

Beyond flexible packaging, both the European Parliament (in amendment 421) and the Council (in its draft proposal from 1 December) have recognised the need to exempt packaging used for the transport of dangerous goods from the scope of the Regulation, either entirely or partially, due to many reasons, including the packaging requirements' incompatibility with measures under the PPWR proposal in terms of closure, solidity etc. This is important because trying to recycle or reuse such packaging could also entail some risks for the handlers and users.

However, products the legislation considers to be 'dangerous goods' are not the only ones that need specific measures due to their hazardous nature. The EU Regulation on the classification, labelling and packaging of substances and mixtures (CLP Regulation) also covers other substances of a hazardous nature but which are not considered 'dangerous goods' per se. This is the case for substances such as food ingredients in the form of concentrated syrups, powders etc. which can be potentially harmful for humans and the environment due to their high concentration or acidity. Policymakers should therefore extend any exemption granted to packaging for the transport of dangerous goods, especially food ingredients in B2B transport, which are covered by the EU CLP Regulation. In addition, moving to reuse for this type of packaging would significantly increase water use, energy usage, the carbon footprint for purchase of new materials and the plant carbon footprint in addition to increasing capital expenses for all business around Europe.

If adopted, the European Parliament's position to implement reuse obligations gradually, starting from 2030, would allow sufficient time for companies to invest in and implement reuse systems without causing significant disruptions.

However, the 95% reuse target proposed by the European Parliament is slightly below the absolute 100% target proposed in the Commission proposal, both of which remain overly stringent. For example, not 100% of pallet wrappings and straps used in transport packaging are part of the re-use system, and they cannot be, as no alternatives are available that ensure the safety of the operator, product and user. Because of this, policymakers must set a more feasible target of 40% as discussed in previous phases of the negotiations. This would allow for more flexibility and would still promote circularity.

Viable alternatives include:

1. Maintain the **exemption for protective packaging** designed to protect fragile and/or heavy goods as proposed by the European Parliament in Article 26, paragraph 1 (row 448).
2. Support the European Parliament position **against setting 2040 targets for pallet wrappings** in paragraph 9 (row 472) before assessing how reuse will develop in the coming years.
3. **Apply the reuse obligations in paragraph 12 and 13 from 1 January 2030**, providing economic operators the time necessary to develop the new system (rows 477 and 481).
4. **Exempt flexible formats and insulation packaging formats** from the reuse obligations in paragraphs 12 and 13 and secure the exemption for transport packaging in direct **contact with food, food ingredients** and for **dangerous goods** (as introduced by the Council and European Parliament in rows 480 and 482 and in row 486e, respectively). There is a particular need to exempt pallet wrap from these articles, as we are not aware of viable reusable alternatives that provide the same level of functionality currently available to the market. Pallet wrap is fully recyclable and widely recycled at scale. A sufficiently detailed

impact assessment must be carried out prior to the inclusion of pallet hoods in these articles.

5. Exempt from Articles 26.12 and 26.13 food and feed as defined in Regulation (EC) No 178/2002 and food ingredients as defined in Regulation (EU) No 1169/2011 for B2B transport.

6. Conduct an analysis, as specified in paragraphs 14a and 15 (rows 485b and 486), with robust and verifiable scientific evidence that is industry-independent, peer-reviewed and publicly available and that considers the life-cycle perspective whenever establishing packaging reusability obligations.

2. Packaging minimisation

The Council's position on Article 9(2) provides a level of protection for design rights and packaging shapes covered by trademarks. This position recognises efforts undertaken across sectors to distinguish products, respect intellectual property rights, communicate their value and distinctiveness, and prevent counterfeiting.

However, the limitation on the exemption as drafted in the Council General Approach is too wide, especially for trademarks. It could have unintended consequences for the applicability of key exemptions and the continued validity and distinctiveness of trademarks and designs. As one example, registered trademarks need to be used in the manner and form specified in their registration. This means that any changes required to packaging shape that is protected by a trademark would make the trademark vulnerable to cancellation and affect its validity.

Our suggested language avoids this likely unintended consequence, whilst removing the likelihood of abuse of the exemption afforded to trademarks and designs as protected by legislation. This position encourages a balanced approach that upholds the highest standards of sustainability and ensures that products present in the European market continue to stand as symbols of excellence on the global stage. Weakening the protection of these rights could not only harm intra-EU trade but also global trade, creating further uncertainty for investments and innovation and hindering EU competitiveness.

3. Harmonisation

The harmonised packaging rules serve several purposes: they aim to reduce packaging waste production; promote reuse, recycling and other forms of recovery; and facilitate the smooth functioning of the internal market. Additionally, they strive to ensure fair competition among market participants and prevent any potential distortions within the EU.

To maintain legal clarity, the European Parliament's decision to reject Member States' ability to impose additional labelling requirements is appropriate. Instead, policymakers should harmonise labelling requirements, particularly concerning material composition and reusability information, except for deposit return schemes (DRS) labels. In this respect, we therefore support the Council's mandate which proposes an exemption from the material composition label for DRS and to apply the harmonised labels to DRS established after the regulation's entry into force to avoid consumer confusion and a negative impact on collection rates in countries with well-established DRS. Furthermore, a standardised QR code or other digital data carrier is important for providing sorting system information, enabling citizens to actively participate in waste prevention efforts.

Conclusion

While the importance of transport packaging and its contribution to recycling rates cannot be overstated, it is crucial to consider the unique characteristics of these packaging formats when setting reuse targets. A gradual approach to implementing reuse obligations, starting in 2030, would allow companies sufficient time to invest in and implement reuse systems without causing significant disruptions. Many actors in the Single Market work with globalised supply chains that require extensive time to be adapted; previous legislation at national level have demonstrated the importance of realistic timelines. Furthermore, the process of packaging minimisation requires realistic transition periods for economic operators to develop design alternatives and adjust manufacturing lines. Lastly, the harmonisation of packaging rules within the EU is essential to ensure a level playing field for all market participants and prevent potential distortions of competition. Policymakers must consider all of these factors when formulating regulations related to packaging and waste management.

List of signatories

AmCham EU – American Chamber of Commerce to the European Union

Applia – Home Appliance Europe

EPLF – European Producers of Laminate Flooring

MMFA - Multilayer Modular Flooring Association

IRE - Independent Retail Europe

PCEP – Polyolefin Circular Economy Platform

TIE – Toy Industries of Europe

UNESDA – European Soft Drink Industry