

RAPPORTEUR PROPOSAL PACKAGE ON BOTH ARTICLE 22 AND 26

I. New general derogation applicable for both articles 22 and 26 for Countries such as Italy or Finland which have an efficient recycling system in place and do not wish to switch to the re-use system in the immediate future, at least on HORECA's premises.

Article 22(1)

1. From 1 January 2030¹, economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V unless:

(a) the economic operators **meet the following criteria:**

- **they are operating in the market of a Member State that already meets the 70% targets for recycling of all packaging waste to be achieved by 2025² and is on track to meet the 2030 following the report that the Commission will publish three years ahead of the target;**

- **they can show having taken other broadly equivalent waste prevention measures in areas such the ones referred in article 9 and 21;**

(b) **the economic operators demonstrate that the products they place on the market are in line with Article 4(2) of Directive 2008/98/EC and meet the requirements of Article 6.2 (b) and 6.6 and therefore that the restrictions on use of packaging formats of row 3 of Annex V may not apply.**

Justification: *In the interests of the internal market, the new proposal seeks to clarify the exemption to restriction on uses proposed by the ITRE Committee and adopted by the plenary, by setting three alternative conditionality element for the economic operator to meet in order to benefit from it:*

- *operating in a Member State that has achieved or is on track to achieve the overall packaging waste recycling target of 70% by 2025 as set out in the 2018 Waste Directive. This would apply for the time being in 7 Member States and 17 Member States if we consider a lower threshold of 65%.*

- *an incentive for stakeholders who take concrete preventive measures (in terms of minimizing packaging or reducing empty spaces). For example, an operator in the Horeca sector which, instead of having re-use system, implement a system for reducing packaging in their shipments (having a void space limit beyond the prescribed one in the legislation) or reduce the weight of the packaging used.*

- *On the other hand, it is important that economic operators operating in Member States which do not meet the criteria for the general derogation in paragraph 1(a) should be able to benefit from the specific derogation in paragraph 1(b), since we know that ensuring proper waste management in line with the waste hierarchy often faces new challenges, particularly in the Horeca sector and for hygiene reasons when packaging fresh fruit and vegetables.*

¹ This postponement of the timetable for economic operators whose packaging formats will be subject to restrictions, which offers an additional 2.5 years compared to the Council's version, is an essential point for the European Parliament to have a cascading effect to accept the content of Annex V (with a more limited scope) and no longer demand the outright deletion of lines 2, 3 and 4.

² **following the report of the Commission (COM (2023) 304 final)** identifying Member States at risk of not meeting the 2025 preparing for re-use and recycling target for municipal waste, the 2025 recycling target for packaging waste and the 2035 municipal waste landfilling reduction target.

- NB: the wording is different than the two amendments adopted in plenary in article 22.1 and 22.2 but the idea is the same: “road for derogation” while giving more legal certainty (compared with the more vague 'collection for recycling' parameter).

II. Mirroring the same general derogation for article 26 (based on the original ITRE amendment 386). If this new wording is accepted by a majority within the EP delegation both AM adopted in plenary at paragraph 6 a (Rapporteur Toia AM 396) and 13a (EPP amendment 417) will fall.

Article 26 (15a)

15a. Economic operators shall be exempted from the obligations under this Article **when they meet the following criteria:**

- **they are operating in the market of a Member State where** the rate of total packaging waste, **as calculated under Article 47(2) to (6)** and reported to the Commission under Article 50(~~1~~) (2) point (c), is **equal to or** above 70% by weight of such packaging placed on the market on the territory of the Member State in which they operate in the calendar years 2026 and 2027; **or**
- **they can show having taken other broadly equivalent waste prevention measures in areas such the ones referred in article 9 and 21;**