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► **B** **EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/62/EC**
of 20 December 1994
on packaging and packaging waste
(OJ L 365, 31.12.1994, p. 10)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003	L 284	1	31.10.2003
► <u>M2</u>	Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004	L 47	26	18.2.2004
► <u>M3</u>	Directive 2005/20/EC of the European Parliament and of the Council of 9 March 2005	L 70	17	16.3.2005
► <u>M4</u>	Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009	L 87	109	31.3.2009
► <u>M5</u>	Commission Directive 2013/2/EU of 7 February 2013	L 37	10	8.2.2013
► <u>M6</u>	Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015	L 115	11	6.5.2015
► <u>M7</u>	Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018	L 150	141	14.6.2018

▼B**EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE
94/62/EC****of 20 December 1994****on packaging and packaging waste***Article 1***Objectives**

1. This Directive aims to harmonize national measures concerning the management of packaging and packaging waste in order, on the one hand, to prevent any impact thereof on the environment of all Member States as well as of third countries or to reduce such impact, thus providing a high level of environmental protection, and, on the other hand, to ensure the functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the Community.

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2. To that end, this Directive lays down measures aimed, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of recovering packaging waste and, therefore, at reducing the final disposal of such waste in order to contribute to the transition towards a circular economy.

▼B*Article 2***Scope**

1. This Directive covers all packaging placed on the market in the Community and all packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used.

2. This Directive shall apply without prejudice to existing quality requirements for packaging such as those regarding safety, the protection of health and the hygiene of the packed products or to existing transport requirements or to the provisions of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste⁽¹⁾.

*Article 3***Definitions**

For the purposes of this Directive:

1. 'packaging' shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. 'Non-returnable' items used for the same purposes shall also be considered to constitute packaging.

⁽¹⁾ OJ No L 377, 31.12.1991, p. 20.

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‘Packaging’ consists only of:

- (a) sales packaging or primary packaging, i. e. packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
- (b) grouped packaging or secondary packaging, i. e. packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;
- (c) transport packaging or tertiary packaging, i. e. packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers.

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The definition of ‘packaging’ shall be further based on the criteria set out below. The items listed in Annex I are illustrative examples of the application of these criteria.

- (i) Items shall be considered to be packaging if they fulfil the abovementioned definition without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together.
- (ii) Items designed and intended to be filled at the point of sale and ‘disposable’ items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function.
- (iii) Packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function shall be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together.

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- 1a. 'plastic' shall mean a polymer within the meaning of Article 3(5) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽¹⁾, to which additives or other substances may have been added, and which is capable of functioning as a main structural component of carrier bags;
- 1b. 'plastic carrier bags' shall mean carrier bags, with or without handle, made of plastic, which are supplied to consumers at the point of sale of goods or products;
- 1c. 'lightweight plastic carrier bags' shall mean plastic carrier bags with a wall thickness below 50 microns;
- 1d. 'very lightweight plastic carrier bags' shall mean plastic carrier bags with a wall thickness below 15 microns which are required for hygiene purposes or provided as primary packaging for loose food when this helps to prevent food wastage;
- 1e. 'oxo-degradable plastic carrier bags' shall mean plastic carrier bags made of plastic materials that include additives which catalyse the fragmentation of the plastic material into micro-fragments;

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2. 'packaging waste' shall mean any packaging or packaging material covered by the definition of waste laid down in Article 3 of Directive 2008/98/EC, excluding production residues;
 - 2a. 'reusable packaging' shall mean packaging which has been conceived, designed and placed on the market to accomplish within its lifecycle multiple trips or rotations by being refilled or reused for the same purpose for which it was conceived;
 - 2b. 'composite packaging' shall mean packaging made of two or more layers of different materials which cannot be separated by hand and form a single integral unit, consisting of an inner receptacle and an outer enclosure, that it is filled, stored, transported and emptied as such;
 - 2c. the definitions of 'waste', 'waste management', 'collection', 'separate collection', 'prevention', 'reuse', 'treatment', 'recovery', 'recycling', 'disposal', and 'extended producer responsibility scheme' laid down in Article 3 of Directive 2008/98/EC shall apply;

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11. 'economic operators' in relation to packaging shall mean suppliers of packaging materials, packaging producers and converters, fillers and users, importers, traders and distributors, authorities and statutory organizations;

⁽¹⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

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12. ‘voluntary agreement’ shall mean the formal agreement concluded between the competent public authorities of the Member State and the economic sectors concerned, which has to be open to all partners who wish to meet the conditions of the agreement with a view to working towards the objectives of this Directive.

▼ M2*Article 4***Prevention****▼ M7**

1. Member States shall ensure that, in addition to the measures taken in accordance with Article 9, other preventive measures are implemented in order to prevent generation of packaging waste and to minimise the environmental impact of packaging.

Such other preventive measures may consist of national programmes, incentives through extended producer responsibility schemes to minimise the environmental impact of packaging, or similar actions adopted, if appropriate, in consultation with economic operators, and consumer and environmental organisations, and designed to bring together and take advantage of the many initiatives taken within Member States as regards prevention.

Member States shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.

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- 1a. Member States shall take measures to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory.

Those measures may include the use of national reduction targets, maintaining or introducing economic instruments as well as marketing restrictions in derogation from Article 18, provided that these restrictions are proportionate and non-discriminatory.

Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.

The measures taken by Member States shall include either or both of the following:

- (a) the adoption of measures ensuring that the annual consumption level does not exceed 90 lightweight plastic carrier bags per person by 31 December 2019 and 40 lightweight plastic carrier bags per person by 31 December 2025, or equivalent targets set in weight. Very lightweight plastic carrier bags may be excluded from national consumption objectives;

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- (b) the adoption of instruments ensuring that, by 31 December 2018, lightweight plastic carrier bags are not provided free of charge at the point of sale of goods or products, unless equally effective instruments are implemented. Very lightweight plastic carrier bags may be excluded from those measures.

From 27 May 2018 Member States shall report on the annual consumption of lightweight plastic carrier bags when providing data on packaging and packaging waste to the Commission in accordance with Article 12.

By 27 May 2016, the Commission shall adopt an implementing act laying down the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and adapting the reporting formats adopted under Article 12(3). That implementing act shall be adopted in accordance with the regulatory procedure referred to in Article 21(2).

1b. Without prejudice to Article 15, Member States may take measures such as economic instruments and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness.

1c. The Commission and the Member States shall, at least during the first year following the 27 November 2016, actively encourage public information and awareness campaigns concerning the adverse environmental impact of the excessive consumption of lightweight plastic carrier bags.

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2. The Commission shall help to promote prevention by encouraging the development of suitable European standards, in accordance with Article 10. The standards shall aim to minimise the environmental impact of packaging in accordance with Articles 9 and 10.

▼ M7*Article 5***Reuse**

1. In line with the waste hierarchy laid down in Article 4 of Directive 2008/98/EC, Member States shall take measures to encourage the increase in the share of reusable packaging placed on the market and of systems to reuse packaging in an environmentally sound manner and in conformity with the Treaty, without compromising food hygiene or the safety of consumers. Such measures may include, inter alia:

- (a) the use of deposit-return schemes;
- (b) the setting of qualitative or quantitative targets;
- (c) the use of economic incentives;
- (d) the setting up of a minimum percentage of reusable packaging placed on the market every year for each packaging stream.

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2. A Member State may decide to attain an adjusted level of the targets referred to in points (f) to (i) of Article 6(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system to reuse packaging.

The adjusted level shall be calculated by subtracting:

- (a) from the targets laid down in points (f) and (h) of Article 6(1), the share of the reusable sales packaging referred to in the first subparagraph of this paragraph in all sales packaging placed on the market, and
- (b) from the targets laid down in points (g) and (i) of Article 6(1), the share of the reusable sales packaging referred to in the first subparagraph of this paragraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market.

No more than five percentage points of such share shall be taken into account for the calculation of the respective adjusted target level.

3. A Member State may take into account the amounts of wooden packaging that is repaired for reuse in the calculation of the targets laid down in point (f), point (g)(ii), point (h) and point (i)(ii) of Article 6(1).

4. In order to ensure uniform conditions for the application of paragraphs 2 and 3 of this Article, the Commission shall adopt by 31 March 2019 implementing acts establishing rules for the calculation, verification and reporting of data, and for the calculation of the targets pursuant to paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

5. By 31 December 2024, the Commission shall examine data on reusable packaging provided by Member States in accordance with Article 12 and Annex III with a view to considering the feasibility of setting quantitative targets on reuse of packaging, including the calculation rules, and any further measures to promote reuse of packaging. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

▼ M2*Article 6***Recovery and recycling**

1. In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50 % as a minimum and 65 % as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

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- (b) no later than 31 December 2008 60 % as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25 % as a minimum and 45 % as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15 % by weight for each packaging material;
- (d) no later than 31 December 2008 between 55 % as a minimum and 80 % as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60 % by weight for glass;
 - (ii) 60 % by weight for paper and board;
 - (iii) 50 % by weight for metals;
 - (iv) 22,5 % by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15 % by weight for wood;

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- (f) no later than 31 December 2025 a minimum of 65 % by weight of all packaging waste will be recycled;
- (g) no later than 31 December 2025 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:
 - (i) 50 % of plastic;
 - (ii) 25 % of wood;
 - (iii) 70 % of ferrous metals;
 - (iv) 50 % of aluminium;
 - (v) 70 % of glass;
 - (vi) 75 % of paper and cardboard;
- (h) no later than 31 December 2030 a minimum of 70 % by weight of all packaging waste will be recycled;
- (i) no later than 31 December 2030 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:
 - (i) 55 % of plastic;
 - (ii) 30 % of wood;

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- (iii) 80 % of ferrous metals;
- (iv) 60 % of aluminium;
- (v) 75 % of glass;
- (vi) 85 % of paper and cardboard.

1a. Without prejudice to points (f) and (h) of paragraph 1, a Member State may postpone the deadlines for attaining the targets referred to in point (g)(i) to (vi) and point (i)(i) to (vi) of paragraph 1 by up to five years, under the following conditions:

- (a) the derogation is limited to a maximum of 15 percentage points from a single target or divided between two targets,
- (b) as a result of the derogation, the recycling rate for a single target is not reduced below 30 %,
- (c) as a result of the derogation, the recycling rate for a single target referred to in point (g)(v) and (vi) and point (i)(v) and (vi) of paragraph 1 is not reduced below 60 %, and
- (d) at the latest 24 months before the respective deadline laid down in point (g) or (i) of paragraph 1 of this Article, the Member State notifies the Commission of its intention to postpone the respective deadline and submits an implementation plan in accordance with Annex IV to this Directive. The Member State may combine that plan with an implementation plan submitted pursuant to point (b) of Article 11(3) of Directive 2008/98/EC.

1b. Within three months of receipt of the implementation plan submitted pursuant to point (d) of paragraph 1a, the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex IV. The Member State concerned shall submit a revised plan within three months of receipt of the Commission's request.

1c. By 31 December 2024, the Commission shall review the targets laid down in points (h) and (i) of paragraph 1 with a view to maintaining or, if appropriate, increasing them. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

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4. Member States shall, where appropriate, encourage the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by:

- (a) improving market conditions for such materials;
- (b) reviewing existing regulations preventing the use of those materials.

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6. The measures and targets referred to in paragraph 1 shall be published by the Member States and shall be the subject of an information campaign for the general public and economic operators.

7. Greece, Ireland and Portugal may, because of their specific situations, namely respectively the large number of small islands, the presence of rural and mountain areas and the current low level of packaging consumption, decide to:

- (a) attain, no later than 30 June 2001, lower targets than those fixed in paragraphs 1(a) and (c), but shall at least attain 25 % for recovery or incineration at waste incineration plants with energy recovery;
- (b) postpone at the same time the attainment of the targets in paragraphs 1(a) and (c) to a later deadline which shall not, however, be later than 31 December 2005;
- (c) postpone the attainment of the targets referred to in paragraphs 1(b), (d) and (e) until a date of their own choice which shall not be later than 31 December 2011.

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10. Member States which have, or will, set programmes going beyond the maximum targets of paragraph 1 and which provide to this effect appropriate capacities for recycling and recovery shall be permitted to pursue those targets in the interest of a high level of environmental protection, on condition that these measures avoid distortions of the internal market and do not hinder compliance by other Member States with this Directive. Member States shall inform the Commission of such measures. The Commission shall confirm these measures, after having verified, in cooperation with the Member States, that they are consistent with the abovementioned considerations and do not constitute an arbitrary means of discrimination or a disguised restriction on trade between Member States.

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11. Member States having acceded to the European Union by virtue of the Accession Treaty of 16 April 2003 may postpone the attainment of the targets referred to in paragraph 1(b), (d) and (e) until a date of their own choosing which shall not be later than 31 December 2012 for the Czech Republic, Estonia, Cyprus, Lithuania, Hungary, Slovenia and Slovakia; 31 December 2013 for Malta; 31 December 2014 for Poland; and 31 December 2015 for Latvia.

▼ M7*Article 6a***Rules on the calculation of the attainment of the targets**

1. For the purpose of calculating whether the targets laid down in points (f) to (i) of Article 6(1) have been attained:

- (a) Member States shall calculate the weight of packaging waste generated and recycled in a given calendar year. Packaging waste generated in a Member State may be deemed to be equal to the amount of packaging placed on the market in the same year within that Member State;
- (b) the weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.

2. For the purposes of point (a) of paragraph 1, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation.

By way of derogation from the first subparagraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that:

- (a) such output waste is subsequently recycled;
- (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.

3. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in point (a) of paragraph 1 of this Article and points (a) and (b) of paragraph 2 of this Article are met. To ensure the reliability and accuracy of the data gathered on recycled packaging waste, the system may consist of electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC, technical specifications for the quality requirements of sorted waste, or average loss rates for sorted waste for various waste types and waste management practices respectively. Average loss rates shall only be used in cases where reliable data cannot be otherwise obtained and shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.

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4. For the purposes of calculating whether the targets laid down in points (f) to (i) of Article 6(1) have been attained, the amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.

5. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted towards the attainment of the recycling targets.

6. For the purposes of calculating whether the targets laid down in points (f) to (i) of Article 6(1) have been attained, Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in the implementing act adopted pursuant to Article 11a(9) of Directive 2008/98/EC.

7. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted towards the attainment of the targets laid down in points (f) to (i) of Article 6(1) by the Member State in which that packaging waste was collected.

8. Packaging waste exported from the Union shall count towards the attainment of the targets laid down in Article 6(1) of this Directive by the Member State in which it was collected only if the requirements of paragraph 3 of this Article are met and if, in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council⁽¹⁾, the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of packaging waste outside the Union took place in conditions that are broadly equivalent to the requirements of the relevant Union environmental law.

9. In order to ensure uniform conditions for the application of paragraphs 1 to 5 of this Article, the Commission shall adopt by 31 March 2019 implementing acts establishing rules for the calculation, verification and reporting of data, in particular as regards the weight of packaging waste generated. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

⁽¹⁾ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

▼ M7*Article 6b***Early warning report**

1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in points (f) to (i) of Article 6(1) at the latest three years before each of the deadlines laid down therein.
2. The reports referred to in paragraph 1 shall include the following:
 - (a) an estimation of the attainment of the targets by each Member State;
 - (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;
 - (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.

*Article 7***Return, collection and recovery systems**

1. In order to meet the objectives laid down in this Directive, Member States shall take the necessary measures to ensure that systems are set up to provide for:
 - (a) the return and/or collection of used packaging and/or packaging waste from the consumer, other final user, or from the waste stream in order to channel it to the most appropriate waste management alternatives;
 - (b) the reuse or recovery including recycling of the packaging and/or packaging waste collected.

Those systems shall be open to the participation of the economic operators of the sectors concerned and to the participation of the competent public authorities. They shall also apply to imported products under non-discriminatory conditions, including the detailed arrangements and any tariffs imposed for access to the systems, and shall be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.

2. Member States shall ensure that, by 31 December of 2024, extended producer responsibility schemes are established for all packaging in accordance with Articles 8 and 8a of Directive 2008/98/EC.

3. The measures referred to in paragraphs 1 and 2 shall form part of a policy covering all packaging and packaging waste and shall take into account, in particular, requirements regarding the protection of the environment and consumer health, safety and hygiene, the protection of the quality, the authenticity and the technical characteristics of the packed goods and materials used, and the protection of industrial and commercial property rights.

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4. Member States shall take measures to promote high quality recycling of packaging waste and to meet the necessary quality standards for the relevant recycling sectors. To that end, Article 11(1) of Directive 2008/98/EC shall apply to packaging waste, including from composite packaging.

▼ B*Article 8***Marking and identification system**

1. The Council shall, in accordance with the conditions laid down in the Treaty, decide no later than two years after the entry into force of this Directive on the marking of packaging.

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2. To facilitate collection, reuse and recovery including recycling, packaging shall indicate for the purposes of its identification and classification by the industry concerned the nature of the packaging material(s) used on the basis of Commission Decision 97/129/EC ⁽¹⁾.

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3. Packaging shall bear the appropriate marking either on the packaging itself or on the label. It shall be clearly visible and easily legible. The marking shall be appropriately durable and lasting, including when the packaging is opened.

▼ M6*Article 8a***Specific measures for biodegradable and compostable plastic carrier bags**

By 27 May 2017, the Commission shall adopt an implementing act laying down the specifications of labels or marks to ensure Union-wide recognition of biodegradable and compostable plastic carrier bags and to provide consumers with the correct information about the composting properties of such bags. That implementing act shall be adopted in accordance with the regulatory procedure referred to in Article 21(2).

18 months after the adoption of that implementing act, at the latest, Member States shall ensure that biodegradable and compostable plastic carrier bags are labelled in accordance with the specifications provided for in that implementing act.

▼ B*Article 9***Essential requirements**

1. Member States shall ensure that three years from the date of the entry into force of this Directive, packaging may be placed on the market only if it complies with all essential requirements defined by this Directive including Annex II.

⁽¹⁾ OJ L 50, 20.2.1997, p. 28.

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2. Member States shall, from the date set out in Article 22 (1), presume compliance with all essential requirements set out in this Directive including Annex II in the case of packaging which complies:

- (a) with the relevant harmonized standards, the reference numbers of which have been published in the *Official Journal of the European Communities*. Member States shall publish the reference numbers of national standards transposing these harmonized standards;
- (b) with the relevant national standards referred to in paragraph 3 in so far as, in the areas covered by such standards, no harmonized standards exist.

3. Member States shall communicate to the Commission the text of their national standards, as referred to in paragraph 2 (b), which they deem to comply with the requirements referred to in this Article. The Commission shall forward such texts forthwith to the other Member States.

Member States shall publish the references of these standards. The Commission shall ensure that they are published in the *Official Journal of the European Communities*.

4. Where a Member State or the Commission considers that the standards referred to in paragraph 2 do not entirely meet the essential requirements referred to in paragraph 1, the Commission or the Member State concerned shall bring the matter before the Committee set up by Directive 83/189/EEC giving the reasons therefor. This Committee shall deliver an opinion without delay.

In the light of the Committee's opinion, the Commission shall inform Member States whether or not it is necessary to withdraw those standards from the publications referred to in paragraphs 2 and 3.

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5. By 31 December 2020, the Commission shall examine the feasibility of reinforcing the essential requirements with a view to, inter alia, improving design for reuse and promoting high quality recycling, as well as strengthening their enforcement. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

▼B*Article 10***Standardization**

The Commission shall promote, as appropriate, the preparation of European standards relating to the essential requirements referred to in Annex II.

The Commission shall promote, in particular, the preparation of European standards relating to:

- criteria and methodologies for life-cycle analysis of packaging,
- the methods for measuring and verifying the presence of heavy metals and other dangerous substances in the packaging and their release into the environment from packaging and packaging waste,

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- criteria for a minimum content of recycled material in packaging for appropriate types of packaging,
- criteria for recycling methods,
- criteria for composting methods and produced compost,
- criteria for the marking of packaging.

*Article 11***Concentration levels of heavy metals present in packaging**

1. Member States shall ensure that the sum of concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components shall not exceed the following:
 - 600 ppm by weight two years after the date referred to in Article 22 (i);
 - 250 ppm by weight three years after the date referred to in Article 22 (i);
 - 100 ppm by weight five years after the date referred to in Article 22 (i).
2. The concentration levels referred to in paragraph 1 shall not apply to packaging entirely made of lead crystal glass as defined in Directive 69/493/EEC ⁽¹⁾.

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3. The Commission shall adopt delegated acts in accordance with Article 21a in order to supplement this Directive by determining the conditions under which the concentration levels referred to in paragraph 1 of this Article do not apply to recycled materials and to product loops which are in a closed and controlled chain, as well as by determining the types of packaging which are exempted from the requirement laid down in the third indent of paragraph 1 of this Article.

▼ B*Article 12***▼ M7****Information systems and reporting****▼ B**

1. Member States shall take the necessary measures to ensure that databases on packaging and packaging waste are established, where not already in place, on a harmonized basis in order to contribute to enabling Member States and the Commission to monitor the implementation of the objectives set out in this Directive.

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2. The databases referred to in paragraph 1 shall include the data based on Annex III and shall provide in particular information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States, including information on the toxicity or danger of packaging materials and components used for their manufacture.

⁽¹⁾ OJ No L 326, 29.12.1969, p. 36.

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3a. Member States shall report the data concerning the implementation of points (a) to (i) of Article 6(1) and data on reusable packaging, for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission on the basis of Annex III in accordance with paragraph 3d of this Article.

The first reporting period concerning the targets set out in points (f) to (i) of Article 6(1) and data on reusable packaging shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 3d of this Article, and shall cover the data for that reporting period.

3b. The data reported by Member States in accordance with this Article shall be accompanied by a quality check report and a report on the measures taken pursuant to Article 6a(3) and (8), including detailed information about the average loss rates where applicable.

3c. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data by the Member States and every four years thereafter.

3d. By 31 March 2019, the Commission shall adopt implementing acts laying down the format for reporting data in accordance with paragraph 3a of this Article. For the purposes of reporting on the implementation of points (a) to (e) of Article 6(1) of this Directive, Member States shall use the format established in Commission Decision 2005/270/EC ⁽¹⁾. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2) of this Directive.

▼ B

4. Member States shall take into account the particular problems of small and medium-sized enterprises in providing detailed data.

▼ M7
_____**▼ B**

6. Member States shall require all economic operators involved to provide competent authorities with reliable data on their sector as required in this Article.

⁽¹⁾ Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).

▼B*Article 13***Information for users of packaging**

Member States shall take measures, within two years of the date referred to in Article 22 (1), to ensure that users of packaging, including in particular consumers, obtain the necessary information about:

- the return, collection and recovery systems available to them,
- their role in contributing to reuse, recovery and recycling of packaging and packaging waste,
- the meaning of markings on packaging existing on the market,
- the appropriate elements of the management plans for packaging and packaging waste as referred to in Article 14.

▼M2

Member States shall also promote consumer information and awareness campaigns.

▼B*Article 14***Management Plans**

In pursuance of the objectives and measures referred to in this Directive, Member States shall include in the waste management plans required pursuant to Article 17 of Directive 75/442/EEC, a specific chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 4 and 5.

*Article 15***Economic instruments**

Acting on the basis of the relevant provisions of the Treaty, the Council adopts economic instruments to promote the implementation of the objectives set by this Directive. In the absence of such measures, the Member States may, in accordance with the principles governing Community environmental policy, *inter alia*, the polluter-pays principle, and the obligations arising out of the Treaty, adopt measures to implement those objectives.

*Article 16***Notification**

1. Without prejudice to Directive 83/189/EEC, before adopting such measures, Member States shall notify the drafts of measures which they intend to adopt within the framework of this Directive to the Commission, excluding measures of a fiscal nature, but including technical specifications linked to fiscal measures which encourage compliance with such technical specifications, in order to permit the latter to examine them in the light of existing provisions following in each case the procedure under the above Directive.

▼ B

2. If the proposed measure is also a technical matter within the meaning of Directive 83/189/EEC, the Member State concerned may indicate, when following the notification procedures referred to in this Directive, that the notification is equally valid for Directive 83/189/EEC.

▼ M7**▼ B***Article 18***Freedom to place on the market**

Member States shall not impede the placing on the market of their territory of packaging which satisfies the provisions of this Directive.

▼ M7*Article 19***Adaptation to scientific and technical progress**

1. The Commission shall adopt implementing acts necessary for adapting the identification system referred to in Article 8(2) and Article 10, second paragraph, sixth indent, to scientific and technical progress. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

2. The Commission is empowered to adopt delegated acts in accordance with Article 21a to amend the illustrative examples for the definition of packaging listed in Annex I.

*Article 20***Specific measures**

The Commission is empowered to adopt delegated acts in accordance with Article 21a in order to supplement this Directive where necessary to deal with any difficulties encountered in applying the provisions of this Directive, in particular, to inert packaging materials placed on the market in very small quantities (i.e. approximately 0,1 % by weight) in the Union, primary packaging for medical devices and pharmaceutical products, small packaging and luxury packaging.

▼ M6*Article 20a***Reporting on plastic carrier bags**

1. By 27 November 2021, the Commission shall present a report to the European Parliament and to the Council, assessing the effectiveness of measures in Article 4(1a) at Union level, in combating littering, changing consumer behaviour and promoting waste prevention. If the assessment shows that the measures adopted are not effective, the Commission shall examine other possible ways to achieve a reduction in the consumption of lightweight plastic carrier bags, including the setting of realistic and achievable targets at Union level, and present a legislative proposal, if appropriate.

▼ M6

2. By 27 May 2017, the Commission shall present a report to the European Parliament and to the Council, examining the impact of the use of oxo-degradable plastic carrier bags on the environment and present a legislative proposal, if appropriate.

3. By 27 May 2017, the Commission shall assess the life cycle impacts of different possibilities to reduce the consumption of very lightweight plastic carrier bags, and present a legislative proposal, if appropriate.

▼ M7*Article 21***Committee procedure**

1. The Commission shall be assisted by the committee established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

*Article 21a***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 11(3) and 19(2) and Article 20 shall be conferred on the Commission for a period of five years from 4 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 11(3) and 19(2) and Article 20 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽²⁾.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²⁾ OJ L 123, 12.5.2016, p. 1.

▼ M7

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 11(3) and 19(2) and Article 20 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

▼ B*Article 22***Implementation in national law**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 30 June 1996. They shall immediately inform the Commission thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. the methods for making such reference shall be laid down by the Member States.

3. In addition, Member States shall communicate to the Commission all existing laws, regulations and administrative provisions adopted within the scope of this Directive.

▼ M6

3a. Provided that the objectives set out in Article 4 and Article 6 are achieved, Member States may transpose the provisions set out in Articles 4(1a) and 7 by means of agreements between the competent authorities and the economic sectors concerned.

▼ M2

Such agreements shall meet the following requirements:

- (a) agreements shall be enforceable;
- (b) agreements shall specify objectives with the corresponding deadlines;
- (c) agreements shall be published in the national official journal or an official document equally accessible to the public, and transmitted to the Commission;
- (d) the results achieved shall be monitored regularly, reported to the competent authorities and the Commission and made available to the public under the conditions set out in the agreement;
- (e) the competent authorities shall ensure that the progress achieved under the agreement is examined;
- (f) in the event of non-compliance with the agreement, Member States shall implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

▼B

4. The requirements for the manufacturing of packaging shall in no case apply to packaging used for a given product before the date of entry into force of this Directive.

5. Member States shall, for a period not exceeding five years from the date of the entry into force of the present Directive, allow the placing on the market of packaging manufactured before this date and which is in conformity with their existing national law.

Article 23

Directive 85/339/EEC is hereby repealed with effect from the date referred to in Article 22 (1).

Article 24

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 25

This Directive is addressed to the Member States.

▼ M5*ANNEX I***ILLUSTRATIVE EXAMPLES FOR THE CRITERIA REFERRED TO IN
ARTICLE 3(1)****Illustrative examples for criterion (i)***Packaging*

Sweet boxes

Film overwrap around a CD case

Mailing pouches for catalogues and magazines (with a magazine inside)

Cake doilies sold with a cake

Rolls, tubes and cylinders around which flexible material (e.g. plastic film, aluminium, paper) is wound, except rolls, tubes and cylinders intended as parts of production machinery and not used to present a product as a sales unit

Flower pots intended to be used only for the selling and transporting of plants and not intended to stay with the plant throughout its life time

Glass bottles for injection solutions

CD spindles (sold with CDs, not intended to be used as storage)

Clothes hangers (sold with a clothing item)

Matchboxes

Sterile barrier systems (pouches, trays and materials necessary to preserve the sterility of the product)

Beverage system capsules (e.g. coffee, cacao, milk) which are left empty after use

Refillable steel cylinders used for various kinds of gas, excluding fire extinguishers

Non-packaging

Flower pots intended to stay with the plant throughout its life time

Tool boxes

Tea bags

Wax layers around cheese

Sausage skins

Clothes hangers (sold separately)

Beverage system coffee capsules, coffee foil pouches, and filter paper coffee pods disposed together with the used coffee product

Cartridges for printers

CD, DVD and video cases (sold together with a CD, DVD or video inside)

CD spindles (sold empty, intended to be used as storage)

Soluble bags for detergents

Grave side lights (containers for candles)

Mechanical quern (integrated in a refillable recipient, e.g. refillable pepper mill)

▼ M5**Illustrative examples for criterion (ii)**

Packaging, if designed and intended to be filled at the point of sale

Paper or plastic carrier bags

Disposable plates and cups

Cling film

Sandwich bags

Aluminium foil

Plastic foil for cleaned clothes in laundries

Non-packaging

Stirrer

Disposable cutlery

Wrapping paper (sold separately)

Paper baking cases (sold empty)

Cake doilies sold without a cake

Illustrative examples for criterion (iii)

Packaging

Labels hung directly on or attached to a product

Part of packaging

Mascara brush which forms part of the container closure

Sticky labels attached to another packaging item

Staples

Plastic sleeves

Device for measuring dosage which forms part of the container closure for detergents

Mechanical quern (integrated in a non-refillable recipient, filled with a product, e.g. pepper mill filled with pepper)

Non-packaging

Radio frequency identification (RFID) tags

▼B*ANNEX II***ESSENTIAL REQUIREMENTS ON THE COMPOSITION AND THE REUSABLE AND RECOVERABLE, INCLUDING RECYCLABLE, NATURE OF PACKAGING****1. Requirements specific to the manufacturing and composition of packaging**

- Packaging shall be so manufactured that the packaging volume and weight be limited to the minimum adequate amount to maintain the necessary level of safety, hygiene and acceptance for the packed product and for the consumer.

▼M7

- Packaging shall be designed, produced and commercialised in such a way as to permit its reuse or recovery, including recycling, in line with the waste hierarchy, and to minimise its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.

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- Packaging shall be so manufactured that the presence of noxious and other hazardous substances and materials as constituents of the packaging material or of any of the packaging components is minimized with regard to their presence in emissions, ash or leachate when packaging or residues from management operations or packaging waste are incinerated or landfilled.

2. Requirements specific to the reusable nature of packaging

The following requirements must be simultaneously satisfied:

- the physical properties and characteristics of the packaging shall enable a number of trips or rotations in normally predictable conditions of use,
- possibility of processing the used packaging in order to meet health and safety requirements for the workforce,
- fulfil the requirements specific to recoverable packaging when the packaging is no longer reused and thus becomes waste.

3. Requirements specific to the recoverable nature of packaging*(a) Packaging recoverable in the form of material recycling*

Packaging must be manufactured in such a way as to enable the recycling of a certain percentage by weight of the materials used into the manufacture of marketable products, in compliance with current standards in the Community. The establishment of this percentage may vary, depending on the type of material of which the packaging is composed.

(b) Packaging recoverable in the form of energy recovery

Packaging waste processed for the purpose of energy recovery shall have a minimum inferior calorific value to allow optimization of energy recovery.

▼M7*(c) Packaging recoverable in the form of composting*

Packaging waste processed for the purpose of composting shall be of such a biodegradable nature that it does not hinder the separate collection and the composting process or activity into which it is introduced.

▼ M7**(d) *Biodegradable packaging***

Biodegradable packaging waste shall be of such a nature that it is capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water. Oxo-degradable plastic packaging shall not be considered as biodegradable.

▼B*ANNEX III***DATA TO BE INCLUDED BY MEMBER STATES IN THEIR DATABASES ON PACKAGING AND PACKAGING WASTE (IN ACCORDANCE WITH TABLES 1 TO 4)**

1. For primary, secondary and tertiary packaging:
 - (a) quantities, for each broad category of material, of packaging consumed within the country (produced + imported - exported) (Table 1);
 - (b) quantities reused (Table 2).
2. For household and non-household packaging waste:
 - (a) quantities for each broad category of material, recovered and disposed of within the country (produced + imported - exported) (Table 3);
 - (b) quantities recycled and quantities recovered for each broad category of material (Table 4).

▼ B

TABLE 1

Quantity of packaging (primary, secondary and tertiary) consumed within the national territory

	Tonnage produced	- Tonnage exported	+ Tonnage imported	= Total
Glass				
Plastic				
Paper/cardboard (including composite)				
► ⁽¹⁾ Ferrous metal				
Aluminium ◀				
Wood				
Other				
Total				

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▼ **B**

TABLE 2

Quantity of packaging (primary, secondary and tertiary) reused within the national territory

	► ⁽¹⁾ Tonnage of packaging placed on the market for the first time ◀	► ⁽²⁾ Reusable packaging ◀		► ⁽³⁾ Reusable sales packaging	
		Tonnage	Percentage	Tonnage	Percentage
Glass					
Plastic					
Paper/cardboard (including composite)					
► ⁽⁴⁾ Ferrous metal					
Aluminium ◀					
Wood					
Other					
Total					◀

► (1) (2) (3) (4) **M7**

▼B

TABLE 3

Quantity of packaging waste recovered and disposed of within the national territory

	Tonnage of waste produced	- Tonnage of waste exported	+ Tonnage of waste imported	= Total
Household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
▶ ⁽¹⁾ Ferrous metal packaging				
Aluminium packaging ◀				
Wood packaging				
Total household packaging waste				
Non-household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
▶ ⁽¹⁾ Ferrous metal packaging				
Aluminium packaging ◀				
Wood packaging				
Total non-household packaging waste				

▶ (1) (2) M7

▼ B

TABLE 4
Quantity of packaging waste recycled or recovered within the national territory

	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered	
		Tonnage	Percentage	Tonnage	Percentage
Household waste					
Glass packaging					
Plastic packaging					
Paper/cardboard packaging					
Cardboard composite packaging					
► ⁽¹⁾ Ferrous metal packaging					
Aluminium packaging ◀					
Wood packaging					
Total household packaging waste					
Non-household waste					
Glass packaging					
Plastic packaging					
Paper/cardboard packaging					
Cardboard composite packaging					
► ⁽¹⁾ Ferrous metal packaging					
Aluminium packaging ◀					
Wood packaging					
Total non-household packaging waste					

► (1) (2) M7

▼M7*ANNEX IV***IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO POINT (D)
OF ARTICLE 6(1A)**

The implementation plan to be submitted pursuant to point (d) of Article 6(1a) shall contain the following:

1. assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;
2. assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;
3. reasons for which the Member State considers that it might not be able to attain the relevant target laid down in points (g) and (i) of Article 6(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;
4. measures necessary to attain the targets set out in points (g) and (i) of Article 6(1) of this Directive that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;
5. a timetable for the implementation of the measures identified in point 4, determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;
6. information on funding for waste management in line with the polluter-pays principle;
7. measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.