

European Parliament and Council Directive 94/62/EC of
20 December 1994 on packaging and packaging waste

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.

'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^[F1].

[F2]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.

[F3]The Commission shall, as appropriate, examine and, where necessary, review the illustrative examples for the definition of packaging given in Annex I. As a priority, the following items shall be addressed: CD and video cases, flower pots, tubes and

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cylinders around which flexible material is wound, release paper of self-adhesive labels and wrapping paper. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).]]

2. 'packaging waste' shall mean any packaging or packaging material covered by the definition of waste in Directive 75/442/EEC, excluding production residues;
3. 'packaging waste management' shall mean the management of waste as defined in Directive 75/442/EEC;
4. 'prevention' shall mean the reduction of the quantity and of the harmfulness for the environment of:
 - materials and substances contained in packaging and packaging waste,
 - packaging and packaging waste at production process level and at the marketing, distribution, utilization and elimination stages,in particular by developing 'clean' products and technology;
5. 'reuse' shall mean any operation by which packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled; such reused packaging will become packaging waste when no longer subject to reuse;
6. 'recovery' shall mean any of the applicable operations provided for in Annex II.B to Directive 75/442/EEC;
7. 'recycling' shall mean the reprocessing in a production process of the waste materials for the original purpose or for other purposes including organic recycling but excluding energy recovery;
8. 'energy recovery' shall mean the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;
9. 'organic recycling' shall mean the aerobic (composting) or anaerobic (biomethanization) treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilized organic residues or methane. Landfill shall not be considered a form of organic recycling;
10. 'disposal' shall mean any of the applicable operations provided for in Annex II.A to Directive 75/442/EEC;
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;
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.

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Textual Amendments

- F1** Substituted by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004 amending Directive 94/62/EC on packaging and packaging waste.
- F2** Inserted by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004 amending Directive 94/62/EC on packaging and packaging waste.
- F3** Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.