

## EUROPEN's Inputs to the High-level Report on the Future of the Single Market

EUROPEN, The European Organisation for Packaging and the Environment, represents the packaging industry value chain in Europe. Since its creation in 1993, the mission of EUROPEN has been to advance packaging sustainability while preserving the integrity of the Single Market.

EUROPEN believes that the Single Market is the backbone of the European green transition. Safeguarding its integrity is key to realising full circularity, climate neutrality and maintaining the economic competitiveness of the European industry.

Preserving the integrity of the Single Market is key to ensure that packaging materials, including secondary raw materials, and packaged goods can move freely across the EU to reach European consumers and businesses. Because packaging is an integral and essential part of any product supply chain, the lack of availability of sufficient and appropriate packaging, for instance due to trade barriers resulting from uncoordinated crisis responses and management mechanisms as experienced during the Covid-19 crisis<sup>1</sup>, can put at risk the security of essential systems such as the food, pharmaceutical, hygiene and personal care sectors, disrupting products' distribution and availability across the entire EU.

Furthermore, from an environmental point of view, harmonised rules are essential to improve the sustainability of packaging and its value chain, ensuring that an EU-wide approach to packaging waste prevention, management and recycling is not defeated by unilateral initiatives.

The reflection on the future of the European Single Market as part of a High-level report is much welcomed and needed. In view of its finalisation, EUROPEN is delighted to put forward the following key recommendations:

- The free movement of goods in the Single Market should be improved by full implementation and enforcement of the Single Market principles, as well as sanctioning of infringements of internal market rules.
- A Single Market test should accompany the adoption of any new EU legislative proposal, to ensure compliance with primary and secondary legislation, and should be based on thorough impact assessments, competitiveness checks and the reduction of unnecessary administrative burdens.
- Political ownership of Single Market principles shall be ensured across all Commission services, Council formations and national Ministries as well as the Parliament's IMCO Committee, ensuring an effective consultation of all relevant services in all phases of a legislative process.<sup>2</sup>

### 1. A functioning Single Market to deliver the Circular Economy

Following the creation of the Single Market, European businesses have benefited from fair competition, a level playing field and operational cost savings which have been essential to deliver sustainable solutions to new environmental and societal challenges. The Single Market has created an ecosystem for European businesses to remain competitive despite geopolitical turmoil, national and European crises, and helped create new job opportunities. It has also given European consumers access to products and services responding to high

<sup>1</sup> In the early phases of the Covid-19 pandemic outbreak, for instance, unilateral measures and restrictions decided by governments resulted in the interruption of key supply chains across the EU. The packaging value chain experienced a number of critical impacts: e.g., closures and disruptions in the operations of production facilities, closure of packaging waste sorting and recycling facilities, obstacles to the circulation of packaged goods within the EU, delays at country borders for the delivery of packaged products and packaging materials.

<sup>2</sup> This recommendation was also put forward as part of the Non-paper on a New Horizontal Single Market Strategy, led by Finland, and supported by 14 EU Member States. See [here](#).

environmental standards applicable across all EU Member States, allowing them to become active players in the green transition.<sup>3</sup>

- **One Single Market, One Circular Economy.** A strong and resilient Single Market represents a fundamental pillar and enabler of circularity. Its undisrupted functioning is key to ensure harmonised legal requirements which, in turn, facilitate the creation and expansion of economies of scale, the unrolling of long-term investments needed to deliver a circular and climate neutral economy in Europe, and the strengthening of the business case for innovative products and technologies to be produced in our continent.
- **Creating a Single Market for secondary raw materials.** At a time where meeting the EU Circular Economy and Green Deal objectives is intertwined with the imperative to maximise finite resources and reduce external dependencies, profiting from a market where valuable resources can circulate free from barriers and unnecessary red tape can help reversing Europe's import dependence on primary goods and paving the way to the creation of a Union market for secondary raw materials. Therefore, between now and 2050, ensuring the continued functioning of the Single Market will be crucial to Europe's global competitiveness, green transition and overall prosperity<sup>4</sup>.

## 2. Effective implementation and enforcement of Single Market principles

In recent years, the Single Market principles have been put into question by a plethora of challenges, from geopolitical instability and internal crisis, to the resurface of technical barriers to trade and the free movement of goods in different sectors.<sup>5</sup> Particularly in the environmental field, the adoption of unilateral and national measures has increased to the detriment of the principles of competition, proportionality and mutual recognition.<sup>6</sup> As a result, fragmentation of the Single Market due to divergent national measures is gravely undermining the implementation of a successful circular economy in Europe with the creation of 27 mini circular economies instead of one European circular economy.

In the case of packaging, divergent national provisions are impacting virtually every economic sector and products' value chains. Disparate national packaging requirements impede the use of a single packaging execution and require the redesign of all packaging across the internal market with significant costs, negative impacts on the environment (e.g. destruction of stocks or unsold items) and the adverse consequence of diverting human and financial resources away from other activities intended to advance sustainability (such as R&D on eco-design and digital traceability of product information for more efficient recycling). The magnitude of this problem will continue to escalate in the absence of strong action to prevent and sanction infringements<sup>7</sup>.

An example of the proliferation of unilateral measures is that of packaging labelling requirements. Packaging labels play an important role to help close the loop in a circular economy, for example by fostering awareness on waste sorting and recycling and empowering consumers as key actors in the circular management of waste. However, the ease of changing packaging labels is often misrepresented or misunderstood. Changing packaging labels is a complex operation, bearing both economic and environmental impacts<sup>8</sup>. For instance, when modifying packaging labelling, the indicative cost per artwork change would amount to approximately € 1,000 – 2,000, which includes evaluation by a regulatory specialist to ensure veracity of all other mandatory labelling requirements. When a few

<sup>3</sup> On the achievements of the Union market since its establishment in 1993 and potential areas for improvement, see the Commission's Communication on the Single Market at 30. Available [here](#).

<sup>4</sup> A functioning single market was identified as a key driver to foster Europe's growth and prosperity in the Communication's Communication on the long-term competitiveness of the EU beyond 2030, available [here](#).

<sup>5</sup> As an example, the Covid-19 pandemic and the lack of coordination in Member States' response mechanisms resulted in the disruption of different value chains, including the packaging supply chain, with direct impacts on the availability and flow of essential goods. The need for a coordinated response to emergencies also brought to the negotiation of a Single-Market Emergency Instrument, see [here](#).

<sup>6</sup> See, for instance, the report of EuroCommerce "Single Market Barriers Overview", last updated in November 2023 and available [here](#).

<sup>7</sup> While sanctioning remains limited, in 2023 the European Commission started an infringement procedure against the French Triman Decree, see [here](#).

<sup>8</sup> As underlined by the impact assessment accompanying the proposal for a Packaging and Packaging Waste Regulation "[...] Unclear and non-harmonised labelling practices across the EU result in barriers to the single market with increased costs for packaging producers and reduced capture of recyclable materials, their contamination and increased costs of reprocessing [...]" See page 13 of the impact assessment, available [here](#). The same document provides several case studies related to relabelling of packaging for different sectors at pages 14 and 16.

thousands Stock Keeping Unit (SKUs) are put on the market, this can represent a potential one-off cost of a few million euros for a single company, even before any ongoing operational costs for separate production of packaging executions for the national market. Recent examples of diverging national marking requirements include measures already adopted by several Member States and for which, in one case, an infringement procedure is currently ongoing (for a detailed overview, please see the Annex).

In addition to labelling, marketing restrictions are an increasing concern. Packaging bans represent the most extreme form of waste prevention measures and should therefore be put in place only after proper assessment of their proportionality, non-discriminatory nature and overall impact, for instance on food availability and wastage<sup>9</sup>. Unilateral packaging bans have been on the rise in the past years<sup>10</sup>, despite insufficient justifications of the necessity or proportionality of these measures by the proposing Member States. The upcoming adoption of the Packaging and Packaging Waste Regulation also risks bringing us back to before the entry into force of the Packaging and Packaging Waste Directive in 1994, when national packaging restrictions held sway and precluded the Single Market in packaged goods.

- **Effective enforcement of the TRIS Directive<sup>11</sup>**. Divergent national measures can no longer go undetected. When Member States fail to comply with the obligation to notify technical measures likely to result in Single Market barriers, thus infringing Article 5 of the TRIS Directive, the submission of a formal complaint to the European Commission can help holding Member States accountable. However, this is only an ex-post mechanism, which does not prevent the introduction of unilateral market barrier infringing the Single Market.
  - An early warning mechanism should be put in place to ensure an effective monitoring of draft national legislations in preparation in the Member States. The effectiveness of the Single Market Enforcement Mechanism as a tool to effectively prevent the introduction of new market barriers should be thoroughly assessed and, if needed, corrective actions should be proposed by the European Commission to address current loopholes.
- **The Single Market principles must be upheld**. When Member States comply with the notification requirements of the TRIS Directive, they often receive a green light to go ahead with the adoption of the draft measure even if they fail to provide an adequate justification of its necessity and proportionality, as required by the Treaty of the European Union.
  - National provisions, likely to result in barrier to the free circulation of goods across the EU must be adopted in full respect of the principles enshrined in the Treaty of the European Union, and in particular Article 34, which forbids market barriers, and Article 36, which requires Member States to justify the necessity and proportionality of any national measures that would impede the free movement of goods in the Single Market.

### 3. Upholding the internal market principles across all policies and legislations

Preserving the integrity of the Single Market and supporting its completion is essential to relaunch Europe's competitiveness and its ability to succeed the circular economy transition. Clearly defined and harmonised EU provisions are the necessary first step to avoid the adoption of diverging and disproportionate national measures, which result in overly restrictive national requirements and EU market fragmentation. This must be supported by the choice of the appropriate legal basis and legal instrument.

<sup>9</sup> In the European Union, around 88 million tonnes of food waste are generated annually with associated costs of 143 billion euros, according to the most recent estimate. Packaging has an essential role to play in the prevention of food waste, protecting products and minimising waste at all stages of the value chain. High-performance packaging solutions and technologies can preserve food safety by minimising sources of contamination and reduce food waste from spoilage. Innovative packaging designs also help consumers buy and use food in portions that match their needs and reduce food waste from leftovers.

<sup>10</sup> More recently, Spain and Belgium have proposed the introduction of unilateral packaging bans. See Annex below.

<sup>11</sup> [Directive \(EU\) 2015/1535](#) foresees a notification procedure whereby Member States are required to notify to the European Commission technical regulations they intend to introduce for products (industrial, agricultural and fishery) and for Information Society services before their adoption. The aim is to ensure that these texts are compatible with EU law and the Internal Market principles.

In the case of packaging, when proposing the revision of the existing Packaging and Packaging Waste Directive last year, the European Commission has rightly identified the need to strengthen harmonisation of packaging rules across the EU, with a view to achieve the ambitious circular economy goals for our industry. To address the increased market fragmentation resulting from unilateral national packaging provisions, the Commission has proposed to transform the existing Directive into a Regulation and confirmed the choice of the internal market legal basis as per Article 114 TFEU. It has also proposed the harmonisation of certain packaging requirements, including labelling requirements, which have gravely disrupted the free movement of packaged goods in recent years. However, the draft text, currently under interinstitutional negotiations, presents major flaws in relation to Single Market<sup>12</sup>. If adopted, several provisions would allow Member States to either retain existing national measures that have already resulted in market barriers, or introduce additional and unilateral provisions aimed at reducing packaging waste, undermining the spirit of harmonisation of the initial Commission's legislative proposal and defeating the intended harmonisation goal. Although *de facto* directly applicable in all EU Member States, the Regulation would look like a Directive in substance and provide no safeguards regarding the obligation to notify measures that could represent technical barriers to trade. As well as jeopardising the EU Green Deal's ambitions, this would negatively impact legal certainty, the effective enforcement of sustainability targets and the free movement of packaging and packaged goods.

- **New legislation must be "Single Market proofed"**. EU rules, in any policy area, need to withstand a Single Market test, which means that they must be designed in compliance with the Single Market principles and support an harmonised implementation of EU legislation across all Member States. This requires enshrining core principles, targets and clear definitions in the body of the legislation or its implementing acts, and also removing provisions that would grant a "licence" to derogate from EU harmonised rules. This would help preventing the risk of diverging national measures from occurring in the first place.
- **The Single Market needs joint political ownership**. The further erosion of the Single Market can be stopped only through joint commitments and actions within and across all EU institutions and Member States. This means first of all a high-level political commitment to preserve the Single Market and pursue its completion. Secondly, it requires the participation of multiple services, across all EU institutions, at all phases of the legislative process, from the preparation of the legislative proposal up to the different steps in the co-decision process and final interinstitutional negotiations. In practice, to ensure an effective Single Market screening of all new legislation, the Commission's GROW Department, the Parliament's IMCO Committee and the Competitiveness Council should all be actively involved and consulted throughout all the phases of the legislative process.

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<sup>12</sup> See, in relation to this, the [Joint Industry Statement on PPWR Workability and Single Market](#).


## Annex

### Overview of EU Members States measures threatening the Single Market and the free movement of goods across the EU

National measure	Content of the measure	Risks for the Single Market	TRIS Notification	Outcome
<p><b>Draft Federal Act amending the Waste Management Act 2002 (Austria)</b></p> <p><a href="#">Link</a></p>	<p>Establishes reusable packaging obligation for food products and beverages sold by retailers from 1 January 2024.</p>	<p>Producers exporting products to Austria would need to create an entire new logistic chain to be able to comply with the reuse targets, which puts them at a competitive disadvantage compared with locally established producers (not exporting outside of Austria) for whom it will be easier to comply.</p> <p>Unilateral national targets risk undermining the upcoming revision of the PPWD, which is looking at ways to boost reuse through harmonised measures at EU level.</p>	<p>Yes</p>	<p>The draft Federal Act was notified to the European Commission via TRIS on 29 April 2021, the notification's standstill period ended on 30 July 2021.</p> <p>The reuse obligations it put forward are to be met by 2025 and 2030.</p>

<p><b>Draft Royal Decree to limit the placing on the market of single-use products harmful to the environment and to increase the recycled content of certain products (Belgium)</b></p> <p><a href="#">Link</a></p>	<p>Measures to phase out the marketing of certain single-use plastic products and packaging and encourage the use of recycled plastics. It also prohibits to place on the market for the first time packaging containing PFAS.</p>	<p>Many of the provisions in the Royal Decree pre-empt the forthcoming revision of the <a href="#">Directive 94/62/EC</a> on Packaging and Packaging Waste (PPWD). Similarly, those obligations will create unjustified barriers to intra-EU trade and consequently amount to quantitative restrictions on imports or measures having equivalent effect.</p> <p>Several requirements in the Royal Decree do not find a legal basis in any of the currently enforced EU legislations or depart from already adopted EU laws. If adopted, the Royal Decree will have negative economic impacts on economic operators without added environmental value.</p>	<p>Yes</p>	<p>The Belgian Draft Royal Decree was notified to the European Commission via TRIS on 29 November 2022. The standstill period was initially set to end on 1 March 2023, but was extended until 30 November 2023 following the adoption of a postponement note by the European Commission.</p>
<p><b>Draft Order of the Walloon Government amending the Order of the Walloon Government of 6 July 2017 on plastic bags (Belgium)</b></p> <p><a href="#">Link</a></p>	<p>Establishes a ban on the placing on the market of single-use plastic primary packaging for unprocessed fruit and vegetables</p>	<p>This unilateral requirement will create barriers to the free trade of goods and pre-empt measures currently under consideration as part of the Packaging and Packaging Waste Regulation</p>	<p>Yes</p>	<p>The Decree was notified to the European Commission through TRIS on 08 December 2023. The end of the standstill period is set for 11 March 2024. The requirement is set to apply from 1 January 2025.</p>
<p><b>Cooperation Agreement on the framework for EPR for certain waste streams and for litter</b></p> <p><a href="#">Link</a></p>	<p>The notified text introduces an EPR for litter, with the total and real costs of managing litter being charged solely on producers.</p>	<p>The agreement extends the scope of the EPR levy scheme to products that are not covered by the SUPD and mentions the intention to add more products in the future.</p>	<p>Yes</p>	<p>The Agreement was notified through TRIS on 7 August 2023, the standstill period ended 8 November 2023 and was extended by 5 detailed opinions until 8 February 2024.</p>

<p><b>PPWD Decree (Bulgaria)</b></p> <p><a href="#">Link</a> <a href="#">Link</a></p>	<p>Establishes obligation to use alphanumerical codes laid down in laid down in <a href="#">Decision 97/129/EC</a></p>	<p>The Decree makes the use of material identification markings mandatory despite the voluntary framework in place, set by <a href="#">Decision 97/129/EC</a>.</p>	<p><b>No</b></p>	<p>The Decree was not notified to the European Commission through TRIS. The requirements were set to apply from 1<sup>st</sup> January 2022. Bulgaria subsequently adopted Decree No. 419 of 14 December 2022 which revised its 2012 Packaging Ordinance making the use of the alphanumerical code applicable on a voluntary.</p>
<p><b>Triman Decree (France)</b></p> <p><a href="#">Link</a></p>	<p>Mandatory symbol: mandates the inclusion of the “Triman” symbol (below) on the labelling of household products (excluding household glass drinks packaging) to indicate sorting rules to consumers.</p> 	<p>France adopted the Triman Decree in June 2021. However, many of the Single Market concerns raised by the European Commission in its detailed opinion remain unaddressed :</p> <ul style="list-style-type: none"> <li>- Multiplication of sorting symbols throughout the EU ultimately creating barriers to the Single Market.</li> <li>- Absence of harmonised marking at the EU level which could be recognised in all Member States and avoid barriers to the Single Market.</li> <li>- Lack of proportionality between the impact of the measure on the movement of goods and the</li> </ul>	<p><b>Yes</b></p>	<p>France notified its draft Triman Decree to the European Commission through TRIS on 30 June 2020. On 29 June 2021, the final Decree was published in the French Official Journal and entered into force despite the comments of different Member States and a detailed opinion by the European Commission.</p> <p>On 15 February 2023, the Commission opened an infringement procedure against France (N.B.: the infringement procedure does not suspend the application of the Triman Decree).</p>

		environmental protection goal.		
<p><b>Green Dot Decree (France)</b></p> <p><a href="#">Link</a></p>	<p>The use of Green Dot marking is subject to penalties in France.</p> 	<p>Direct contradiction of this measure with existing provisions of other Members States such as Spain where the Green Dot is mandatory.</p> <p>NB: the only measure included in the Decree to address this issue is a longer transition period for packaged products having to comply with both the mandatory Green Dot in another Member State and its prohibition in France.</p>	<b>No</b>	<p>The French Green Dot Decree was not notified to the European Commission through TRIS. In March 2021, a consortium of French industry associations filed a complaint on the text to the French State Council, which ruled in favour of temporarily suspending the execution of the decree until the judge makes a decision on their legality as the measures with respect to EU principles of free circulation of goods and proportionality.</p> <p>On 30 June 2023, the French State Council issued its final ruling on the Decree, deciding to cancel it entirely.</p>
<p><b>Single-Use Plastics Directive Decree (France)</b></p> <p><a href="#">Link</a></p>	<p>First reduction and eventual ban of SUP packaging from the French market:</p> <ul style="list-style-type: none"> <li>- Ban of certain SUP products from 1 January 2022</li> <li>- 50% reduction of SUP beverage bottles placed on the French market by 2030</li> </ul>	<p>Banning certain SUP products and packaging from the French market, whereas they can be marketed in other Member States, creates a barrier to the free movement of goods.</p> <p>Violation of the Art. 18 of the PPWD, which obliges Member States to allow the</p>	<b>Yes</b>	<p>France notified the draft text to the European Commission through TRIS on 26 June 2020. France adopted the Decree, which entered into force in January 2021.</p>




	- Ban of all SUP packaging by 2040	placing on the market of their territory of packaging that satisfies its provisions.		
<b>3R Decree (France)</b>  <a href="#">Link</a>	<ul style="list-style-type: none"> <li>- Sets a roadmap to phase-out “useless single-use plastic packaging”.</li> <li>- Sets milestone of 20% reduction of SUP packaging placed on the French market by 31 December 2025, 50% of which must be achieved through packaging reuse.</li> </ul>	<p>Banning some SUP products and packaging from the French market, whereas they can be marketed in other Member States, creates a barrier to the free movement of goods.</p> <p>Violation of the Art. 18 of the PPWD, which obliges Member States to allow the placing on the market of their territory of packaging that satisfies its provisions.</p> <p>Definition of “useless SUP packaging” might contradict existing EU rules and disregard Essential Requirements set out in the PPWD.</p> <p>Increasing trend of national targets risks creating a multiplication of diverging legal requirements and consequent Single Market barriers. This also risks undermining the upcoming revision of the PPWD,</p>	<b>No</b>	The Decree came into force in April 2021 and is applicable until 31 December 2025. It was not notified to the European Commission prior to its adoption.

		which is looking at ways to boost reuse through harmonised measures at EU level.		
<b>Reuse Decree (France)</b>  <a href="#">Link</a> <a href="#">Link</a>	Sets a roadmap to increase the share of reusable packaging placed on the French market. Includes a definition of reused packaging.	<p>Producers exporting products to France would need to create an entire new logistic chain to be able to comply with the reuse targets, which puts them at a competitive disadvantage compared with locally established producers (not exporting outside of France) for whom it will be easier to comply.</p> <p>Unilateral national targets risk undermining the upcoming revision of the PPWD, which is looking at ways to boost reuse through harmonised measures at EU level.</p>	<b>Yes</b>	The draft Decree was notified to the European Commission via TRIS on 27 July 2021. The notification's standstill period ran until 28 October 2021. Following the submission of comments by Czechia and Sweden, a final version of the Decree was notified through TRIS in April 2022 and entered into force on 1 January 2023.
<b>Fruits and Vegetables Plastic Packaging Decree (France)</b>  <a href="#">Link</a> <a href="#">Link</a> <a href="#">Link</a>	Sets the obligation to sell fresh unprocessed fruit and vegetables without packaging made up entirely or partly of plastic.	Violation of the Art. 18 of the PPWD, which obliges Member States to allow the placing on the market of their territory of packaging that satisfies its provisions.	<b>Yes/No</b>  (The new Decree banning packaging made partly or wholly of plastic for the sale of fresh fruit and vegetables as of 1 July 2023 was not notified to TRIS).	France notified the draft Decree to the European Commission through TRIS on 12 March 2021. France then adopted the Decree, which entered into force in January 2022. On 9 December 2022, the Council of

		<p>By prohibiting packaging types that are allowed in other Member States, the text creates unjustified obstacles to trade between Member States of the EU and a barrier to the free movement of goods.</p> <p>Risk to have unintended negative environmental impacts, in the form of increase of food loss and waste of unprocessed fruits and vegetables.</p>		<p>State announced its decision to annul the Decree.</p> <p>On 14 December 2022, France notified to the TRIS portal a new Decree on the obligation to present unprocessed fresh fruit and vegetables for sale without packaging made entirely or partly of plastic. The end of the standstill period was set on 15 March 2023 but was extended to 15 December 2023 following the publication from the Commission of a postponement note (which suspends the adoption of the Decree for a period of 12 months).</p> <p>On 20 June 2023, France adopted a nearly identical new Decree implementing restrictions of packaging made partly or wholly of plastic for the sale of fresh fruit and vegetables. This new Decree has not been notified to the TRIS portal and entered into force on 1 July 2023. On 6 December, the EC issued a note pointing out that the text had been adopted before the end of the standstill period, thus violating Art. 6 of the TRIS Directive, and inviting France to inform the EC of the measures it intends to take to remedy this situation.</p>
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<p><b>Decree prohibiting certain SUP Food Containers made of Expanded or Extruded Plastics (France)</b></p> <p><a href="#">Link</a></p>	<p>Prohibits the provision of single-use plastic food containers consisting entirely or partly of extruded polystyrene, expanded or extruded polypropylene and intended for on-site or nomadic consumption.</p>	<p>By prohibiting packaging types that are allowed in other Member States, the text creates unjustified obstacles to the trade of goods between Member States of the EU and a barrier to the free movement of goods.</p> <p>Measure translating into a ban of most single-use plastic food containers for immediate or on-the-go consumption, which will be applicable in France only, making producers established outside of France unable to market their products, therefore constituting a measure equivalent to a quantitative restriction on imports, prohibited by Article 34 TFEU.</p>	<p>Yes</p>	<p>France notified this draft text to the European Commission through TRIS on 18 March 2022. The European Commission issued comments on the draft Decree and the standstill period ended on 20 June 2022).</p> <p>To date, France has not adopted this draft Decree.</p>
<p><b>Order specifying the substances contained in mineral oils prohibited for use on packaging and for printed matter distributed to the public (France)</b></p> <p><a href="#">Link</a></p>	<p>- Prohibits certain mineral oils used in the manufacture of inks for packaging and printed products</p>	<p>By prohibiting mineral oils in certain applications that are allowed in other Member States, the text creates unjustified obstacles to trade between Member States of the EU and a barrier to the free movement of goods.</p> <p>The draft Order also impedes the placing on the market of packaging that meets the essential requirements as laid down in Article 9 of the PPWD.</p>	<p>Yes</p>	<p>France notified this draft text to the European Commission through TRIS on 6 January 2022. The European Commission and several Member issued comments on the draft text and the standstill period ended on 7 April 2022. The final text was notified again through TRIS on 13 April 2022 and entered into force on 1 January 2023.</p>

<p><b>Anti-waste mandatory redemption system (Hungary)</b></p>	<p>- Lays down detailed rules on the establishment and application of deposit fees and the marketing of products with a deposit fee, including measures that would pre-empt articles 44 and 11(1) of the PPWR proposal.</p>	<p>The requirement that a product with a mandatory deposit fee may only be marketed if it bears the labelling provided in Annex 1 of the draft Decree will create unjustified barriers to intra-EU trade and consequently amount to quantitative restrictions on imports or measures having equivalent effect.</p> <p>The draft Decree is also pre-empting the adoption of the PPWR provisions on DRS.</p>	<p><b>Yes</b></p>	<p>The Hungarian Government notified the draft Decree via the TRIS portal in March 2023.</p> <p>Following the comments issued by Sweden and a detailed opinion by the European Commission, the standstill period was extended and is set to end on 25 September 2023.</p>
<p><b>Decree of implementation of the circular economy package (Italy)</b></p> <p><a href="#">Link</a></p>	<p>- Establishes obligation for packaging producers to provide consumers with information about the final destinations of the packaging in accordance with the <a href="#">UNI</a> technical standards</p> <p>- Establishes obligation for producers to label all packaging with the material identification markings (alphanumerical codes) laid down in <a href="#">Decision 97/129/EC</a></p>	<p>The Decree makes the use of material identification markings and inclusion of sorting instructions on the labelling mandatory despite the voluntary framework in place, set by <a href="#">Decision 97/129/EC</a>.</p> <p>Sorting instructions are not harmonised across the EU, such obligations at national level create a barrier to the free movement of goods.</p>	<p><b>No</b></p> <p>(Notification on the postponement of the obligations and the adoption of labelling guidelines only. The initial decree was not notified)</p>	<p>The technical guidelines entered into force on 1 January 2023, along with the Italian marking requirements, and will be periodically updated thereafter. The document specifies that it is possible to make available the marking information through digital channels to be chosen. On 8 November 2022, CONAI released a “Manual for the use of digital channels in the environmental labelling of packaging”.</p>
<p><b>Circular Economy Package (Luxembourg)</b></p> <p><a href="#">Link</a> <a href="#">Link</a> <a href="#">Link</a></p>	<p>- Establishes obligation to use alphanumerical codes laid down in laid down in <a href="#">Decision 97/129/EC</a></p> <p>- Establishes that containers, trays, plates and cutlery used in the context of a home delivery service or a take-away service shall be</p>	<p>The proposed measures will impede the placing on the market of packaging that is fully compliant with the provisions of the EU packaging legislation, thus being contrary to Article 18 of the PPWD.</p>	<p><b>Yes</b></p> <p>(The prohibition of packaging made entirely or partly of plastics for the sale of fruits and vegetables listed in Annex II of the law was not included in the notified text)</p>	<p>The three texts were notified via the TRIS notification system back on 30 July 2020 (2020/485/L, 2020/487/L, 2020/486/L). The three laws and their provisions entered into force on 14 June 2022.</p>

	<p>reusable and subject to take-back</p> <ul style="list-style-type: none"> <li>- Introduces the prohibition of certain single-use products and packaging in parties and events open to the public</li> <li>- Introduces the prohibition of packaging made entirely or partly of plastics for the sale of fruits and vegetables listed in Annex II of the law (for products sold in batches of up to 1.5kg).</li> </ul>	<p>The obligations will create unjustified barriers to intra-EU trade and amount to quantitative restrictions on imports or measures having equivalent effect, which are prohibited by Article 34 of the TFEU.</p>		
<p><b>Portuguese Decree-Law</b></p> <p><a href="#">Link</a></p>	<ul style="list-style-type: none"> <li>- Establishes obligation to use alphanumerical codes laid down in laid down in <a href="#">Decision 97/129/EC</a></li> <li>- Establishes obligation to include sorting information in labelling, including the color of recycling bin.</li> <li>- Bans use of “Tidy Man” symbol on recyclable packaging.</li> </ul> 	<p>These requirements would require specific packaging for the Portuguese market, therefore creating a barrier to the free movement of goods. Sorting instructions and colour codes of bins are not harmonised across the EU, this information could be confusing for consumers in other Member States.</p> <p>Direct contradiction of this measure with existing provisions of other Members States. Banning the “Tidy Man” symbol might result in a ban of packaging / labelled products lawfully marketed in other Member States where this symbol is affixed.</p>	<p><b>Yes</b></p>	<p>Portugal notified the European Commission of its draft Decree through the TRIS notification system on 23 February 2021. The European Commission, Estonia and Sweden submitted comments on the draft notified text. The notification’s standstill period ended on 25 May 2021. The Decree-Law is set to enter into force on the following date of its publication.</p> <p>It is for the moment unclear if Portugal will go ahead and adopt the draft Decree, and in what form.</p>

<p><b>PPWD Decree (Slovenia)</b></p> <p><a href="#">Link</a></p>	<p>Establishes obligation to use alphanumerical codes laid down in laid down in <a href="#">Decision 97/129/EC</a> and forbids import of packaging that does not have this marking.</p>	<p>The Decree makes the use of material identification markings mandatory despite the voluntary framework in place, set by <a href="#">Decision 97/129/EC</a>. The ban on imported packaging not bearing the marking constitutes a barrier to trade.</p>	<p>Yes</p>	<p>According to the Decree, the marking obligation is set to enter into force in 1 January 2022. Slovenia notified a draft of the Decree to the European Commission via TRIS on 10 November 2020.</p> <p>On 14 September 2021, Slovenia notified another draft text to the European Commission via TRIS amending the Decree that had been formerly notified. Article 2 of the new draft amends Article 9 of the Decree and sets that the requirement on labelling of packaging with labels of packaging materials evolves from mandatory to voluntary.</p>
<p><b>Draft Royal Decree on Packaging and Packaging Waste (Spain)</b></p> <p><a href="#">Link</a></p>	<p>- Sets out measures on packaging waste reduction, targets on packaging reuse, mandatory plastic recycled content targets, a prohibition on certain packaging for fruits and vegetables in retail, as well as marking obligations.</p>	<p>The proposed measures will impede the placing on the market of packaging that is fully compliant with the provisions of the EU packaging legislation, thus being contrary to Article 18 of the PPWD.</p> <p>Most obligations will create unjustified barriers to intra-EU trade and consequently amount to quantitative restrictions on imports or measures having equivalent effect, which are prohibited by Article 34 of the TFEU.</p>	<p>Yes</p>	<p>On 6 May 2022, Spain notified a draft Royal Decree on packaging and packaging waste via the TRIS portal. The Royal Decree on Packaging and Packaging Waste was adopted 28 December 2022 and entered into force subsequently, repealing the Packaging Decree of 1997.</p>

<p><b>Draft law on Waste and Soil Protection (Spain)</b></p> <p><a href="#">Link</a></p>	<p>Sets out quantitative reduction targets for SUP products, restrictions on new lines of plastic products and products containing plastic microbeads, measures related to product line design and marking requirements, and consumer awareness measures to reduce littering.</p>	<p>The original proposal aimed to introduce a differentiated tax system for recycled plastic content, exempting from the tax only recycled plastic content originating from Spain, as well as the obligation for producers established in another Member State to designate a representative in Spain for the purposes of fulfilling their EPR obligations.</p> <p><u>NB</u>: Spain eventually dropped the proposal of a differentiated tax system, which could have resulted in a barrier to developing a Single Market for recycled plastic.</p>	<p>Yes</p>	<p>The Spanish preliminary draft law on Waste and Soil Protection was partially notified to the European Commission through TRIS on 20 October. Following the submission of a detailed opinion, on 8 April 2022, the law on waste and contaminated soils for a circular economy was adopted, transposing the draft law on Waste and Soil Protection.</p>
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