



Japan Machinery Center  
for Trade and Investment

21th April, 2023

Dear Sirs,

**Our comments on the Proposal for a REGULATION OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL on packaging and packaging waste**

The Japan Machinery Center for Trade and Investment (“JMC”) is a non-profit organization. It was established in December 1952 in accordance with the Japanese Export and Import Trade Law under the authorization of the Minister of Economy, Trade and Industry of Japan. The objective of the JMC is to engage in activities that enhance the common benefit of member companies and promote the sound development of international trade and investment by the machinery industry. JMC comprises member companies engaged in machinery and systems-related exports and foreign investments such as machinery manufacturers, trading houses and engineering companies. At present, the total number of JMC member companies is about 240.

Our committee handles environmental and product safety issues regarding products for trade and is strongly concerned with overseas environment- and product safety-related regulations on products. From this standpoint, we would like to comment on the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on packaging and packaging waste

If you have any questions, please feel free to contact our secretariat (Mr. Chiaki Morikawa, E-mail: [morikawa@jmcti.or.jp](mailto:morikawa@jmcti.or.jp))).

Sincerely yours,

KANNO Yasuhiko

Chairman

Environment Law Committee

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Rm. 401, Kikai Shinko Bldg., 3-5-8 Shiba-koen Minato-ku, Tokyo 105-0011, Japan

Tel : 81-3-3431-9230 , Fax : 81-3-3436-6455

E-mail : [morikawa@jmcti.or.jp](mailto:morikawa@jmcti.or.jp)

URL : <https://www.jmcti.or.jp>

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**Our comments on the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on packaging and packaging waste**

The Commission's proposal to repeal the existing EU Packaging Waste Directive and make it a new regulation on “packaging and packaging waste” as a legislative act, and to explicitly limit Member State-specific requirements under Article 4 to achieve more exclusive harmonisation at the EU level, are welcomed as critical measures to prevent various legislation by Member States. However, we would like to recommend that an economically viable institutional design be developed in order to implement it in line with the policy objectives of the European Green Deal and the new Circular Economy Action Plan. Therefore, we would like to submit the following comments.

**1. Article 2 (Scope)**

Packaging for consumers and packaging for industry serve different applications and should therefore be clearly distinguished when defining packaging design, required performance standards and substances of concern, as the exposure profile is different between consumer and professional industrial users. Packaging for B2B products is often different for each customer, according to the equipment and handling procedures in the customer’s facility and is not uniformly designed. The requirements related to design of the packaging are not applicable. We would like to request that only material requirements according to Article 5 should be applied for B2B products.

**2. Article 4 (Free movement)**

Point 3 states, “Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation.” We agree with this statement.

Currently, some Member States have their own labelling requirements, which manufacturers are struggling to deal with. We would like to propose that the new Regulation specifically state that these country-specific requirements should be eliminated and that labelling requirements should be fully harmonised within the EU level. On the other hand, since manufacturers often unify their packaging designs worldwide, we would also like to request that the labelling requirements for non-EU markets be exempted as far as they do not conflict with this regulation.

### **3. Article 13 (Obligations of manufacturers)**

Article 13 states, “Before placing packaging on the market, manufacturers shall carry out the relevant conformity assessment procedure referred to in Article 33 and draw up the technical documentation to be retained.” However, we would like to ask that this requirement be withdrawn as we consider it to be excessive for the following reasons.

- **Article 5 (Requirements for substances in packaging)**

The provisions required by the Packaging Waste Directive to date have allowed for operation without the preparation of technical documentation. It is therefore considered sufficient to stipulate compliance with the existing REACH and CLP regulations.

- **Article 9 (Packaging minimization)**

The packaging of electrical and electronic equipment and machinery is intended to protect the product during transport, etc., and reducing the weight of packaging materials is achieved as far as possible in reducing transport costs. The means of assessment of minimisation and the obligation to produce technical documentation for individual packaging in order to achieve the result of packaging minimisation is a requirement that imposes an excessive burden on operators beyond what is necessary. In order to make the regulation more effective, the criteria for determining minimisation and the specific methods of implementation should be further discussed with stakeholders.

If a declaration of conformity and technical documentation are still required, we would like to see a grace period of at least 24 months after the date of entry into force of this Regulation, as we need to build a system so that we can carry out the relevant conformity assessment procedure referred to in Article 33 and draw up the technical documentation etc. to be retained

### **4. Article 6 (Recyclable packaging)**

- In order to sufficiently absorb shocks during the logistic process, specific packaging of cushioning is often necessary, especially for precision equipment such as electrical and electronic equipment, and hence, we would like to ask you to establish exemptions so that such products are allowed.
- If the EU Commission were to submit a report under the Delegation as required by point 4, nine months before the end of the five-year period after the entry into force of this Regulation (by four years and three months), and then adopt delegated acts, the promulgation of the delegated acts would be roughly the same time as the implementation of the recyclable packaging requirement set out as of 1 January 2030 in point 2 and 3 of this Article. This will not allow producers to prepare for complying with the design for recycling criteria laid down by the delegated act. Producers need at least a three-year preparation period to make design changes and reflect them in the actual product.

- Therefore, the compliance date of the design for recycling criteria should be the later date of 1 January 2033 or the date three years after the promulgation of the delegated acts set out in point 4. Alternatively, obligating the EU Commission to complete the delegated acts by 31 December 2026 would be manageable for producers.

#### **5. Article 7 (Minimum recycled content in plastic packaging)**

- Mitigation measures should be put in place for the reuse of packaging plastics in open loop recycling, as it can be difficult to obtain information on the evidence for Article 5 (Requirements for substances in packaging) owing to the fact that several materials may be mixed during the recycling stream and become untraceable.
- It should be added to the Regulation that Member States, suppliers of packaging and service providers, etc. should take well into consideration the commercial availability of recycled content. Impurities may remain in the plastic made from recycled content, and hence, it is not always suitable to use the recycled contents, such as in the case of semiconductors. We would like to propose that this matter be stipulated as an exemption.
- The use of recycled contents often impairs the quality of packaging and may lead to an increase in the volume of the packaging to sufficiently perform the protection functionality of the packaging, and this can be attributed to environmental risk factors. Therefore, consideration should be given to relaxing or exempting requirements if they do not comply with Article 9 (Packaging minimisation) and Article 21 (Obligation related to excessive packaging)..

#### **6. Article 11 (Labelling of packaging)**

We would like to see this new regulation on packaging and packaging waste harmonised with the revision of the Ecodesign Regulation currently under consideration. Declarations of conformity and technical documents for electrical and electronic equipment, etc., are prepared in a way that integrates the two regulations, and thus it would be inconvenient if the definitions in the two regulations are not harmonised.

#### **7. Article 26 (Re-use and refill targets)**

Reuse may negatively impact the environment due to additional transport of return of the used packaging, and appropriate disposal of such packaging should also be considered.



### **8. Publication of the guidelines**

For actual operation, the guidelines need to provide examples of specific measures to be taken. In particular, when enacting subordinate laws, specific rules and guidelines should be prepared in collaboration with industry first. Afterwards, the subordinate laws should be published, and the guidelines should also be made public immediately.

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