

BRUSSELS, 08.07.2021

REVIEW OF THE PACKAGING AND PACKAGING WASTE DIRECTIVE 94/62/EC

STEEL FOR PACKAGING:

APEAL, the Association of European Producers of Steel for Packaging, unites the six producers of steel for packaging in Europe. Its members (Acciaierie d'Italia, ArcelorMittal, Liberty Liège-Dudelange, Tata Steel, thyssenkrupp Rasselstein and U.S. Steel Košice) employ over 200,000 workers in Europe, 15,000 of whom are employed directly in the production of steel for packaging across 11 dedicated manufacturing sites.

Steel for Packaging Steel is a unique packaging material, combining exceptional performance capabilities with unrivalled environmental credentials. Strong, formable and long-lasting, steel offers numerous benefits for the safe packaging of a wide variety of products.

The **steel sector is a top performer in recycling packaging materials**. With a recycling rate of 84%¹, steel for packaging is the most recycled primary packaging in Europe. Our industry has worked closely with European, national and local authorities, Extended Producer Responsibility Schemes, waste management operators, customers, brands and civil society at large, to invest in collection systems that underpin the recycling infrastructure.

CONTEXT

The steel for packaging sector fully supports the European Commission's ambition to make the European Union climate neutral by 2050, boost the economy through green technology and achieve a truly circular economy for the benefit of citizens, the environment and the EU economy. In 2020, the European Commission adopted the [new circular economy action plan \(CEAP\)](#) . It is one of the main building blocks of the [European Green Deal](#), Europe's new agenda for sustainable growth.

The CEAP states that the amount of materials used for packaging is growing continuously. As APEAL, we recognise the need to make all packaging put on the market either recyclable or reusable. Reinforcing, inter alia, the Essential Requirements in Directive 94/62/EC is therefore fundamental. As APEAL, we are pleased to provide our input to the current consultation round organised by Eunomia.²

¹ APEAL-website: [Steel for Packaging recycling rate 2019](#)

² European Commission-website: [A new Circular Economy Action Plan](#)

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APEAL participated in five workshops (compostable packaging was not relevant for us) organised by the European Commission's DG Environment, Eunomia and partnering consultancies.

Following the workshops, the steel for packaging sector is keen to provide some additional input to the draft Impact Assessment which is currently being prepared by the European Commission service with support from Eunomia and other consultants.

1. Recyclability:

APEAL supports a hybrid approach when it comes to "recyclability":

Qualitative approach:

APEAL supports the introduction of a qualitative approach in relation to recyclability which encompasses the following features:

- Packaging should have the ability to be separated from the waste stream, be recycled at scale and substitute primary raw material, preferably not once, but **multiple times** without loss of intrinsic material properties ;
- a threshold considering the recyclability of the functional unit of the packaging (for which a definition would be needed) of the packaging, however, instead of a threshold of 95%, we believe **a threshold of 80%** in a first phase and 90% in second phase after a 5-year's transition period. We believe this would be more feasible and would allow our industries time to innovate further . Furthermore, the remaining minor components should be compatible with the relevant recycling process and not hinder the recyclability of the main components;
- Introducing a timeframe of **maximum of 2 years** for innovative packaging to be recycled at scale.

Quantitative:

APEAL also supports the introduction of a quantitative approach in relation to recyclability, linking recyclability to the recycling rate of the packaging materials. Although, the recycling rate target for steel packaging in the PPWD is considerably higher than for most of the other packaging materials, we would prefer the **recycling rate threshold to be linked to the packaging material targets set in the PPWD** and not to an overall threshold of 20%, the latter being too low.

The recycling rate of the various packaging materials remains an essential indicator to measure recyclability. Our sector has made tremendous efforts to increase the recycling rate of steel for packaging over the last decade. As a result, today, more than 8 out of 10 steel for packaging items put on the EU market are recycled into new steel products. Input of steel scrap is a necessary component for making new steel at any one of more than 500 steel plants in Europe. Indeed, the more quality scrap that can be used in new steel production, the less raw materials and energy are needed and in turn, this reduces emissions.

Conclusion: APEAL believes that the qualitative and quantitative approach should be combined with a view to defining recyclability. High-quality recycling starts with the design of the packaging and therefore highly recyclable packaging should be advanced (among others through legislation) and rewarded (e.g., through EPR eco-modulated fees). However, design for recycling alone is not enough for a true circular economy. At the end of its life, the packaging needs to be really recycled and therefore we would welcome that all MS effectively implement and reach the packaging material recycling rate targets as laid down in the PPWD of 2018.

2. Recycled content:

Following the dedicated 'recycled content' workshops organised by the European Commission and Eunomia, the steel for packaging industry understands that possible targets would not apply to steel. APEAL recognises the need to increase the availability and quality of recyclates especially for packaging materials which have currently a low uptake of recyclates. In the case of steel, there is a well-functioning market of secondary raw materials (scrap).

Steel packaging put on the market is being collected, sorted and recycled, at a very high recycling rate, 84% in 2019³. It is used to substitute the use of primary raw material in a wide range of steel products, including but not limited to, packaging. Disturbing this **well-functioning material-based circular loop** by defining a recycled content target for steel packaging would not only be economically problematic but would also result in a higher environmental footprint. This would imply that steel packaging scrap is to be isolated from other steel scrap and transported to just a few steel plants which produce steel for packaging instead of it going to one of the approximately 500 steel plants across Europe.

With regard to a possible reporting obligation of recycled content in packaging, it is our firm belief that this should apply only to materials or product categories for which recycled content targets are being imposed. Extending reporting to packaging for which no recycled content targets are defined would put an unnecessary burden on actors in the value chain choosing steel for packaging.

3. Packaging waste prevention:

The functionalities of packaging, which include safety, hygiene, transport and product life span, should always be considered. As outlined by the European Parliament Resolution (CEAP), also APEAL believes packaging waste prevention should address, inter alia, excessive packaging, recyclability and the complexity of packaging⁴.

APEAL considers that before introducing possible top-down reduction targets, a comprehensive economic and environmental impact assessment should be carried out. One of the main reasons for the increase of packaging put on the market in the EU is the continuous growth of smaller households on the one hand, and of on-the-go consumption on the other hand. This leads to an increase of smaller pack sizes, among others to avoid food waste, with the consequence that, all together, they weigh relatively more than larger pack sizes for a similar product content.

APEAL believes that the European Commission should not only look at the top of the waste hierarchy (i.e., waste prevention, re-use and recycle), but also disposal. Today 19%⁵ of packaging waste is still not treated meaning that it typically goes to landfill while a large amount of packaging waste, like steel for packaging, can effectively be recycled.

APEAL believes that a bottom-up approach might be a better way forward, looking at the possibility of light weighting the packaging where possible, whilst respecting the functionalities of the packaging and the packaging specifications issued by the producers to guarantee the performance of the packaging/content couple. However, it needs to be considered that steel (for) packaging already took the necessary actions to lightweight its packaging in the last decades and these light weighting efforts of the steel for packaging industry should be recognized.

³ APEAL-website: [Steel for Packaging recycling rate 2019](#)

⁴ ENVI-report European Parliament, on the Circular Economy Action Plan (CEAP), paragraph 66

⁵ According to Eurostat figures of 2018 reference

When mandatory MS top-down % reduction targets would be considered (expressed as weight reduction in relation to the average unit packaging weight), we believe equal reduction targets should be set for the different packaging materials.

The initial PPWD, including the Essential Requirements (ER) of packaging, shifted in many cases the use of recyclable packaging material, like steel packaging, to packaging materials that are less or not recyclable, and/or difficult to recycle or not recycled at all. Packaging material that can be recycled multiple times should not be the primary target of stringent waste prevention targets but should receive credits instead. In other words, we believe that the waste prevention targets should be linked to qualitative and quantitative recyclability criteria.

Packaging materials that can be recycled multiple times are used again to substitute the use of primary raw material. Therefore, a further optimising of the separate collection and sorting of packaging is a prerequisite for high-quality recycling.

Furthermore, consumers have an important role to play in supporting the transition to a Circular Economy as pointed out by European Parliament of 10 February 2021 on the New Circular Economy Action Plan - P9_TA(2021)0040 (par 115.) and they should be given adequate guidance on how to properly sort and return their waste. Sorting instructions should therefore be clear and easy to understand and harmonized at the appropriate level (e.g., on MS-level, considered local circumstances). These sorting instructions should privilege separate collection, ensuring high-quality input to the recycling operations.

4. Re-use

APEAL supports the Commission's initiatives to promote the usage of reusable packaging. However, we believe that only well-functioning re-usable packaging schemes, being the ones that are ecological and economical feasible (e.g., in B2B for drums, kegs and barrels), should be promoted. We furthermore believe that a clear definition of a reusable packaging is a key element in promoting reusable packaging.

5. Overarching measures:

a) For hazardous substances

In relation to a broadening of the scope of the PPWD to include "substances of concern" as defined by the Strategy for Sustainability Towards a Toxic Free Environment, APEAL is of the opinion that, given it is a specific product Directive, the scope should be maintained at substances that apply to packaging products. In order to fulfill the objective of the PPWD to reduce the toxicity of packaging waste and ensure that certain substances are not released into the environment, we do not believe it is useful to include broad, non-discriminating lists of substances, or references to such lists, e.g., REACH Candidate List, etc., as they may not be fully relevant for packaging. Furthermore, it would be inappropriate to have a general limitation/restriction of substances without prior impact assessment. Moreover, the revised Waste Framework Directive also applies to packaging waste and Art. 9 of it already carries declaration obligations for substances of very high concern, while REACH Art. 33 does similarly for products. These also have the secondary effect of promoting substitution. Consequently, we believe that the PPWD should only focus on particular substances that are pertinent to packaging.

In relation to reporting, APEAL is not in favour of the PPWD going outside of the scope of the REACH (Art. 33) or the Waste Framework Directive (Art. 9(1)(i)). These processes already have reporting requirement for substances, including in waste. Establishment of an additional declaration scheme or database over and above what is already in place to report hazardous substances would not bring any additional benefit.

Furthermore, extensive reporting on all substances would be impossible for actors in the packaging supply chain to comply with, given the issues around Intellectual Property (IP) and confidentiality. Introducing such an obligation would, therefore, be of little use and would likely result in non-compliance.

In terms of potential restrictions under the PPWD, it is not fully clear what is meant by restriction of substances in packaging under the PPWD and how this process would work in practice. In any case, it should include opportunities for stakeholders to comment on proposed measures before their adoption. There is already a Restriction mechanism under the REACH regulation (Title VIII, leading to Annex XVII) that can be used to address the use of hazardous substances in articles. We, therefore, question the need for an additional process in a specific directive that potentially mimics an already existing risk management instrument within REACH. Furthermore, the PPWD, as a directive, would be prone to divergent implementation between Member States should such a restriction process be included in the revision. Irrespective of which process is ultimately used, any and all restrictions should be risk-based and supported by preliminary assessment of all potential impacts, following relevant and proven scientific data and knowledge.

b) For Green Public Procurement (GPP)

APEAL welcomes the Commission's objective for GPP maximizing the potential of the EU public sector procurement to drive circularity in the packaging value chain. We therefore support the GPP criteria including that the packaging used should be reusable and/or recyclable, focusing on the circularity and recyclability of packaging,

We believe that, either the minimum packaging criteria could be added to the current (voluntary) GPP measures or, that mandatory minimum packaging criteria could be set for priority product and service areas. When defining GPP-criteria, the internal market rules should be respected. Furthermore, we would like to reiterate (see point 2) that when recycled content targets would be imposed, these should only be for packaging materials for which there is not yet a well-functioning recycling market.

c) For data and enforcement

Article 7.2. of the current PPWD (2018/852) states that no later than 31 December of 2024, extended producer responsibility schemes (EPR) are to be established for all packaging. APEAL welcomes harmonisation of EPR-reporting across the EU. Furthermore, we believe that high-quality recycling will not only be reached by implementing and further optimizing separate waste collection schemes, but also by applying harmonised EPR eco-modulated fees that incentivize packaging that can be easily collected, sorted and recycled, not only once or a few times, but multiple times, replacing primary raw material.

In this respect, a differentiated step within the recycling category of the waste hierarchy (e.g., one-off and downcycling versus high-quality multiple recycling') could be considered in the context of eco-modulated EPR fees. In order to guarantee that the obligations set in PPWD primary and secondary legislation would be respected, APEAL welcomes the Commission's initiative to reinforce the market surveillance authorities as applying legislation, can only be guaranteed through enforcement.

6. CEAP and landfill:

APEAL supports the European Commission's intention to focus on waste prevention and reduce the amount of packaging waste generated per inhabitant of the EU. However, the functionalities of packaging, in particular avoiding food and guaranteeing safety and hygiene, should always be considered too. . While APEAL understands that landfill is not in scope of the review of the PPWD, we would like to point out that 19%⁶ of packaging waste is "not treated" which implies that, in most cases, it is being landfilled. In order to fully close the loop on packaging waste, APEAL believes we should not only ensure that all packaging put on the market is either reusable or recyclable by 2030 but also ensure that no recyclable packaging materials, like steel for packaging, go to landfill. As outlined in the present position paper, a holistic approach is needed to tackle both waste prevention (the top of the waste hierarchy) but also the 'bottom' being disposal or landfill.

Steel for packaging can help Europe move towards an efficient and circular economy. It is a valuable resource and should not be wasted. By phasing-out landfill of recyclable packaging waste, steel for packaging waste, which has well-established market, will be used to produce new steel products. Closing the loop for steel packaging is only possible if landfill is phased out which is already the case in a number of Member States.

For these reasons, APEAL would welcome that in the text preceding the articles of the new PPWD, a so-called **"whereas"** is included, with a commitment that the review of the PPWD should be complemented by a review of the Landfill Directive aiming at accelerating the phase-out of landfill of recyclable packaging waste (via e.g., gradually increased landfill taxes).

APEAL - Alexis Van Maercke, Secretary General, a.vanmaercke@apeal.be, +32 2 535 72 06

APEAL - Steve Claus, Sustainability & Circular Economy Officer, s.claus@apeal.be, +32 496 54 14 11

APEAL, Ruaidri MacDomhnaill, Regulatory Affairs Manager, r.macdomhnaill@apeal.be, +32 535 72 05

⁶ According to Eurostat figures of 2018 reference