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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	14510/26
Subject:	Proposal for a Regulation of the European Parliament and of the Council suspending the application of the rules on the appointment of an authorised representative for extended producer responsibility for batteries and waste batteries and packaging and packaging waste - Mandate for the negotiations with the European Parliament

Delegations will find attached the mandate for negotiations with the European Parliament on the abovementioned proposal, as agreed by the Permanent Representatives Committee at its meeting on 21 October 2026. Changes compared to the Commission proposal are marked in **bold** for the additions and with […] for the deletions.

ANNEX

2025/0395 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

suspending the application of the rules on the appointment of an authorised representative for extended producer responsibility for [...] packaging and packaging waste

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article [...] 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

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[1] OJ C , , p. .
[2] OJ C , , p. .

(1) The political guidelines for the Commission's 2024-2029 term[3] point to the goal of simplifying, consolidating and codifying legislation to eliminate any overlaps and contradictions while maintaining high standards and staying the course on the goals set out in the European Green Deal.

(2) In its Communication entitled 'A simpler and faster Europe: Communication on implementation and simplification',[4] the European Commission set out a vision for an implementation and simplification agenda that delivers fast and visible improvements for people and business on the ground. That requires more than an incremental approach and the Union is to take bold action to achieve that goal. The European Parliament, the Council, the Commission, the Member States' authorities at all levels and stakeholders need to work together to streamline and simplify Union, national and regional rules and implement policies more effectively.

(3) In its Communication on a Strategy for the Single Market[5], the Commission identified as a barrier to the internal market that businesses face inconsistent national regulations which make it harder to sell, scale or move goods and services across borders. The Commission committed to focus on the ten most harmful barriers as a priority. The Communication identified certain features of extended producer responsibility schemes as one of the barriers most frequently reported by companies operating cross-border in the Union. While extended producer responsibility schemes are derived from Union legislation, a lack of uniformity of principles and requirements has led to a large diversity of extended producer responsibility schemes set up in Member States as well as to regulatory complexity and high administrative burden for companies. This Regulation is a first stepping stone to more profound simplification of the extended producer responsibility schemes in the area of waste, while the upcoming Circular Economy act should provide for further simplification.

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[3] Europe's Choice, Political Guidelines for the next European Commission 2024−2029, Ursula von der Leyen.

[4] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 11 February 2025, 'A simpler and faster Europe: Communication on implementation and simplification', COM/2025/47 final.

[5] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'The Single Market: our European home market in an uncertain world A Strategy for making the Single Market simple, seamless and strong', COM(2025) 500 final.

(4) In particular, due to that lack of harmonisation, in particular regarding the current provisions in sectoral legislation for the appointment of an authorised representative for extended producer responsibility, the fulfilment of the obligations related to the appointment may result in a [...] **disproportionate** administrative burden on producers operating in multiple Member States where they are not established. [...] **F**or small and medium-sized enterprises, **in particular micro-enterprises,** the obligation to appoint authorised representatives separately in every Member State where the producer places products on the market poses a significant challenge in terms of costs. With a view to ensuring equal conditions for producers established in the Union, it is important that producers are subject to the same rules in all Member States for appointing an authorised representative for extended producer responsibility. The currently fragmented legal framework for different products and the administrative burden associated with fulfilling the requirement to appoint an authorised representative for extended producer responsibility in up to 26 Member States is hampering the competitiveness of producers established in the Union. It is thus crucial to harmonise the existing rules effectively and promptly, reducing the associated burdens on such producers. To this effect, the Commission is currently reviewing the effectiveness, the administrative burden and the unintended barriers for the internal market, of the obligation to appoint authorised representatives as a safeguard for the producers' compliance with the 'polluter pays' principle. This review is likely to lead to alternative solutions which are more effective and less burdensome.

(5) With a view to simplifying requirements on producers, and reducing the administrative burden, [...] producers of packaging or packaged products ('packaging producers') should be able to choose whether they appoint an authorised representative for extended producer responsibility when making available products on the market of another Member State where they are not established, but the appointment should not be mandatory. This allows those producers who have already appointed an authorised representative for extended producer responsibility to retain their existing arrangements, while immediately alleviating the costs and administrative burden for producers who wish to not appoint an authorised representative for extended producer responsibility.

(6) Ensuring traceability and enforcement with regard to [...] packaging producers established in third countries is more challenging compared to those operating within the Union, as such producers fall outside the territorial scope of Member States' enforcement powers and are not covered by the Union administrative and judicial cooperation mechanisms that enable the enforcement of obligations and judgments within the internal market. The existing provisions on the appointment of an authorised representative for extended producer responsibility for producers established in third countries should therefore be maintained in their current form. Thus, the provision in Regulation (EU) 2025/40 of the European Parliament and of the Council[6] which sets out that Member States may provide that producers established in third countries are to appoint an authorised representative for extended producer responsibility when making packaging or packaged products available on their territory for the first time should remain applicable. [...][7][...]

(7) The provision in Regulation (EU) 2025/40 that makes the appointment of an authorised representative for extended producer responsibility for producers established in the Union and making packaging or packaged products available for the first time on the territory of another Member State, directly to end users, mandatory should be suspended until 1 January 203**2** [...].

(8) The suspension should cease to apply where a producer subject to it fails to comply with its extended producer responsibility obligations. Decisions to terminate the suspension in case of non-compliance should be taken by the competent authorities, which are responsible for overseeing the implementation of extended producer responsibility obligations.

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[6] Regulation (EU) 2025/40 of the European Parliament and of the Council of 19 December 2024 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC (OJ L, 2025/40, 22.1.2025, ELI: http://data.europa.eu/eli/reg/2025/40/oj).

[7][...]

(9) The Commission is preparing a legislative proposal for a comprehensive reform of the extended producer responsibility system. The proposal is expected to be tabled by the Commission, in accordance with its Work Programme, in 2026. The legislative proposal will be subject to the ordinary legislative procedure and, if adopted by the European Parliament and by the Council, the Member States and the producers will have to take the necessary measures to align their regulatory and organisational measures with regard to the extended producer responsibility, as well as their conduct to the new rules. **In that regard, the duration of the suspension should be reviewed by 31 December 2030.**

(10) Suspending the application of the requirement for [...] packaging producers established in one of the Member States to appoint authorised representatives for extended producer responsibility when making [...] packaging or packaged products available **on the territory** [...] **of** another Member State **for the first time** serves as a preliminary measure to immediately alleviate burdens for **small** producers, paving the way for the implementation of a comprehensive reform of the extended producer responsibility system.

(12) Since the objectives of this Regulation, namely to provide flexibility to producers established in the Union as to whether they appoint an authorised representative for extended producer responsibility, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

[...]

Article 2

Suspension of Article 45(3) of Regulation (EU) 2025/40

The application of Article 45(3) of Regulation (EU) 2025/40 shall be suspended **for a producer established in a Member State in respect of each other Member State where that producer makes less than 1 tonne of packaging, including packaging of packaged products, available on their territory for the first time in a calendar year,** until 1 January 203**2** [...].

[...]

By way of derogation from the first subparagraph, where a national competent authority finds that a producer exempted by this Article is in breach of extended producer responsibility obligations according to Regulation (EU) 2025/40 or national implementing provisions, the national competent authority can order this producer to appoint an authorised representative for the extended producer responsibility.

Article 2a

Review

By 31 December 2030, the Commission shall review the need to modify the duration of the suspension pursuant to Article 2.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*