

## TO ALL THOSE CONCERNED

Milan, 29 November 2018

**Subject: Application of the Conai Environmental Contribution. Innovations concerning empty packaging traders from 1 January 2019. Conai Board resolution of 20.6 and 21.11.2018<sup>1</sup>**

As a result of some amendments to the Consortium Articles of Association and Regulations<sup>2</sup>:

- the so-called “*first transfer*” (relating to the application of the Conai Environmental Contribution) is considered to be the transfer, even temporary and for whatever reason, in the national territory:
  - of the finished packaging performed by the **last producer** or **empty packaging trader** to the **first user**, other than the empty packaging trader;
  - of the packaging material performed by a producer of raw material or semi-finished products to a self-producer who is or claims to be such.
- the historical wording “Conai Environmental Contribution paid” refers exclusively to filled packaging.

For the sole purpose of the application of the Conai Environmental Contribution (hereinafter also CAC), the empty packaging trader therefore equates to the last packaging producer, thus transferring the CAC levy, at the time of transfer of the packaging to the first actual “user” (i.e., the entity that purchases/receives the packaging to pack their own goods).

Instead, from 1 January 2019, nothing changes:

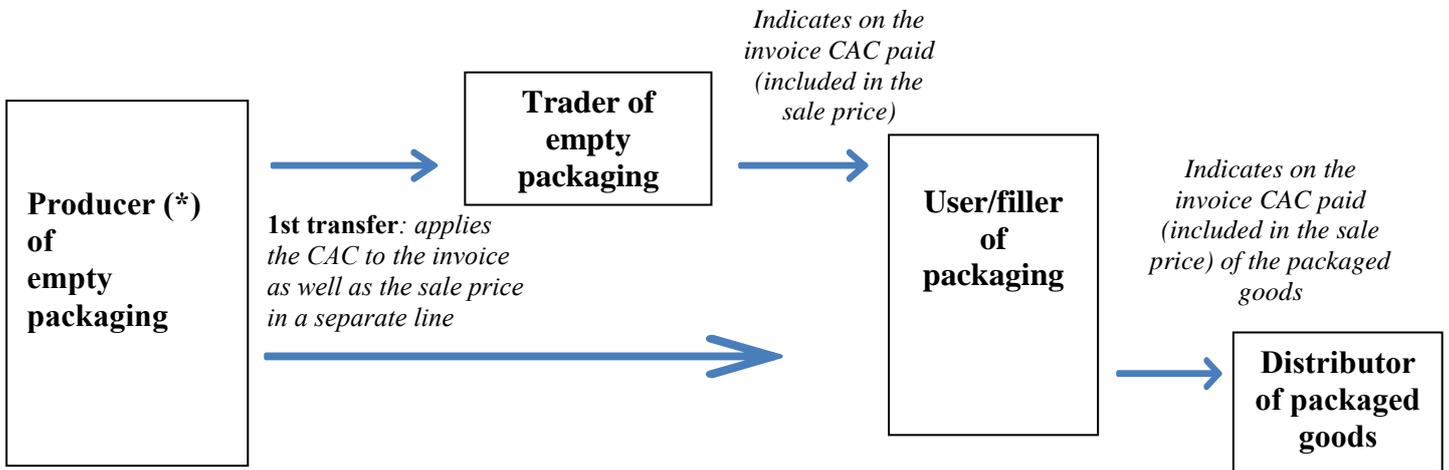
- for the transfer of packaging material from the supplier of raw materials or semi-finished products to the self-producer;
- for packaging producers who, unless otherwise specified in writing by the customer, must continue to apply the CAC to their invoices;
- for empty packaging importers/retailers who must continue to operate in the same way as packaging producers.

<sup>1</sup> This circular supplements and replaces the Circular of 25 June 2018 and contains detailed operating instructions for the new procedure in question.

<sup>2</sup> See art. 14, paragraph 1, points b) and c) of the Articles of Association and art. 4, paragraphs 4 and 9 of Conai’s Regulations

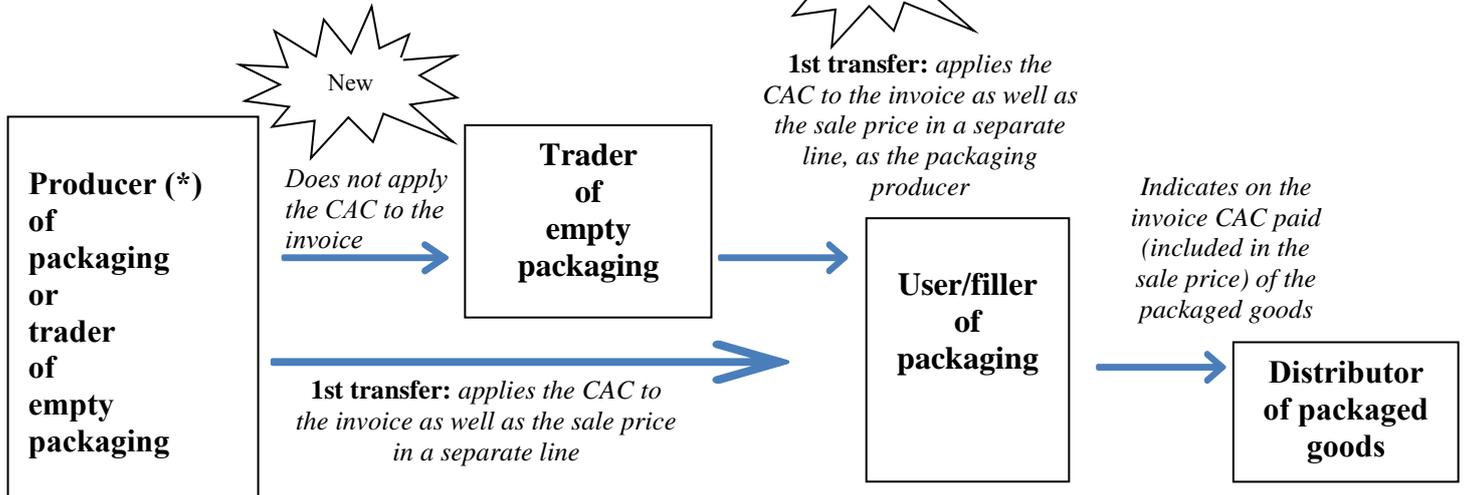
In the following illustrative diagrams, the flows before and after the amendments are shown graphically, together with the wording to be indicated on the invoice:

**DIAGRAM 1 – before the amendments of 4 June 2018**



(\*) Importers of empty packaging also come into the producers of empty packaging category

**DIAGRAM 2 – after the amendments of 4 June 2018**



(\*) Importers of empty packaging also come into the producers of empty packaging category

## **A. NEW REQUIREMENTS FOR EMPTY PACKAGING TRADERS**

It follows that **empty packaging traders**, regardless of other contextual activities that are not relevant for the purposes of the CAC or that, in any case, are not related to packaging, are required to fulfil the same obligations envisaged to date for **packaging producers** and **importers of empty packaging purchased for resale** and, in particular:

1. to issue a specific CAC exemption certificate to the transferring supplier (whether a producer or an empty packaging trader in turn), sent to Conai too for information, in which they declare, inter alia, to be Conai consortium members and commit to directly fulfil the obligations of applying, declaring and paying the CAC (par. 4.1.4 of the Conai Guide and form 6.23, available from 1 January 2019 both in the online declarations service and in the new Guide);
2. to apply the CAC to sales invoices for customers/users (unlike empty packaging traders) using the “first transfer” methods, specifying the CAC as well as the sale price of the packaging (par. 4.2.1 of the Guide);
3. to declare and pay the CAC to Conai on first transfers made (par. 4.3 and chapter 6 of the Guide).

**WARNING:** the CAC is always payable to Conai by the entity (producer or trader of empty packaging) that carries out the “first transfer” to the user (unlike the empty packaging trader) in the national territory, in accordance with the methods and terms envisaged by the aforementioned consortium regulations.

At the same time, **in order to assist empty packaging traders** who manage flows of packaging that are not significant in terms of weight (hereinafter referred to as “**small traders**”), Conai has introduced a facilitated procedure described below, also in force as from 1 January 2019, substantially extended also to other particular entities (such as central buying offices, commercial networks, Cash & Carry, etc.) with some clarifications illustrated in point C. 1 below.

## **B. FACILITATED (OPTIONAL) PROCEDURE FOR SMALL TRADERS OF EMPTY PACKAGING**

Through this facilitated procedure, described below, “small traders” of empty packaging will be able to continue paying the CAC to suppliers at the time of purchase of the packaging, rather than charging it to national customers in their invoices, declaring it and paying it to Conai.

## Clarifications and operating instructions for the facilitated procedure for “small traders”:

1. **Definition of “small traders” of empty packaging:** for the sole purpose of this procedure, entities that managed packaging flows last year up to a limit of 150 tons, in terms of weight, for each material (for plastic, the sum of the three categories envisaged to date) are considered “small traders” of empty packaging. Therefore, it may be the case that an empty packaging trader can opt for the facilitated procedure for only some of the materials managed internally.

The facilitated procedure also applies to newly established companies or ones that are starting to trade empty packaging.

2. **One-off self-certification:** “small traders” that choose to use the facilitated procedure must send, **exclusively to Conai** (and not to the supplier), a self-certification that attests to their “consortium member” status and specifically indicates the materials that the packaging for which they intend to continue paying the CAC to the supplier are made of. Consequently, **unless otherwise specified to the supplier**, the latter will continue to apply the CAC to the transfer made to the “small trader”.

The new form 6.24 "Small trader" of empty packaging declaration to inform Conai of the intention to use the facilitated procedure will be available - as from 1 January 2019 - both in the online declarations service and in the new Conai Guide.

**WARNING:** in the event of **false self-certification** regarding the status of “small trader” issued to Conai by the empty packaging trader, the CAC will remain payable to Conai by the latter for the “first transfer” made, which may require the cancellation of the CAC paid to the supplier to which it erroneously paid it.

3. **Wording to be included on the invoice:** the “small trader” that opts for the facilitated procedure must indicate on the sales invoices of empty packaging for which the supplier has already charged the CAC:

***“Amount inclusive of the already paid Conai Environmental Contribution”.***

In the event that, at the request of the customer, the "small trader" does not request a recharge of the CAC, it must indicate on the invoice *“Amount not inclusive of the Conai environmental contribution already paid”*. At the same time, it may request the refund from Conai, documenting that the packaging has been subjected to CAC at the time of purchase and that there has been no recharge at the request of the customer.

**WARNING: the historical wording “Conai Environmental Contribution paid” refers exclusively to filled packaging.** It follows that, on the same invoice, the small trader must put the wording *“Amount inclusive of the already paid Conai Environmental Contribution”* for transferred empty packaging and the wording *“Conai Environmental Contribution paid”* should there also be packing materials for the transferred empty packaging on which the CAC has already been paid.

4. **Deadline for identification of the status of "small trader" as at 31 December of each year to take advantage of the facilitated procedure:** if an empty packaging trader is

unable to know whether the limit of 150 tons of packaging sold before 31 December has been exceeded, not having therefore the certainty of being able to fall within the facilitated procedure reserved for so-called "small traders", the same will nevertheless be able to adopt this facilitated procedure from 1 January of the following year, provided that:

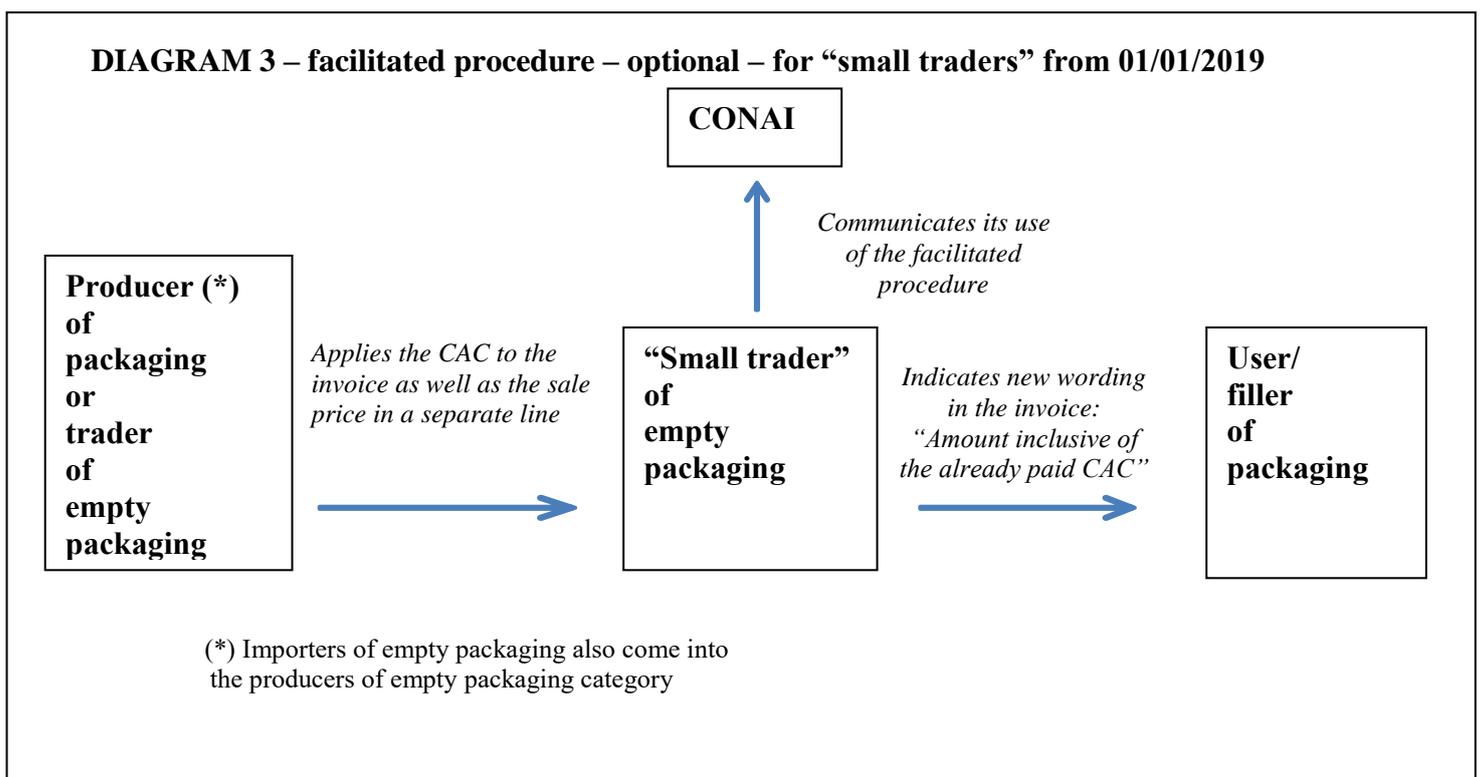
- ✓ the limit of 150 tons was not already exceeded as at 30 September of the previous year;
- ✓ it revokes within 90 days - if applicable - the facilitated procedure as indicated below (point 5).

The company therefore has a 3-month time frame, starting from 1 January, to verify the requirements for taking advantage of the facilitated procedure or, otherwise, to revoke the procedure adopted at the beginning of the year.

5. **Withdrawal of the concession:** should the “small trader” that uses this facilitated procedure exceed the limit of 150 tons (per material) of packaging managed during the course of the year, they will be required to revoke the procedure and directly fulfil the obligations relating to the “first transfer” (or rather, application of the CAC to invoices, as well as its subsequent declaration and payment to Conai) with reference to the material or materials for which it exceeded this limit. In such instances, within 90 days of exceeding the limit, the “small trader” must send to the supplier (and for information to Conai) the specific exemption certificate – form 6.23 (referred to in the previous point A.1, par. 4.1.4 of the Guide), which is also valid as revocation of the facilitated procedure.

For materials for which the limit of 150 tons was not exceeded, the trader may continue to adopt the facilitated procedure or, alternatively, revoke the facilitated procedure and adopt the same ordinary procedure envisaged for the materials for which the threshold was exceeded.

In the following diagram 3, the flows that concern “small traders” of empty packaging are shown graphically, together with the wording to be indicated on the invoice:



## C. SPECIAL CASES

### 1. **Facilitated procedure (optional) for central buying offices, commercial networks, Cash & Carry, etc.**

So-called "central buying offices", Cash and Carry and commercial networks that purchase empty packaging to supply direct or indirect shops/affiliates/members as well as retail stores that purchase empty packaging (e.g. shoppers) for packaging goods sold to consumers, even if they exceed the threshold of 150 tons of packaging sold in the previous year, **as from 1 January 2019:**

- continue to pay the Conai Environmental Contribution to suppliers who charge it on invoices when they sell packaging to the aforementioned entities;
- must include on the invoices the wording: "*Amount inclusive of the already paid Conai Environmental Contribution*". Sales of packaging made by retailers directly to consumers are excluded from this obligation;
- are exempted, at the same time, from sending the one-off self-certification to Conai referred to in point B. 2 above.

Therefore, only for these types of companies operating in the manner described above, nothing changes with regard to management of the Environmental Contribution - compared to today's current rules - excepting the new wording to be included on the invoice, as a result of the recent amendments to the Consortium Articles of Association and Regulations<sup>3</sup>.

### 2. **Packaging flows transferred in 2019, constituting inventories as at 31.12.2018**

Traders of empty packaging that, from 1 January 2019, also manage packaging purchased with subjection to CAC in "first transfer" - thus constituting inventories as at 31.12.2018 - must adopt the following procedure.

Since there cannot be another first transfer, which already took place by the end of 2018, any recharge of the CAC by traders to their customers (for packaging already subject to CAC and constituting inventories) will take place by detailing the "unit contribution by product code" (par. 4.2.3 of the Conai Guide) or inclusion of the Contribution in the final sales price of the packaging with indication of the wording "*Amount inclusive of the already paid Conai Environmental Contribution*"<sup>4</sup>. In this latter case, any off-accounts data sheets requested by the customers (or by Conai) must detail the CAC actually included in the sales price of the packaging.

In any case, the "internalised" unit environmental contribution can never be different from that already paid at the time of purchase to national suppliers or declared to the Conai on imported packaging.

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<sup>3</sup> The historical wording "Conai environmental contribution paid" can no longer be used for empty packaging but only for packaged goods (filled packaging).

<sup>4</sup> In the event that companies did not intend to seek a recharge to customers, the wording "Amount not inclusive of the already paid Conai environmental contribution" must, on the other hand, be indicated on the invoice.

For any errors in requesting a recharge due to application on the customer invoice of a unit CAC amount different from that paid on purchase, the invoicing adjustments must be made by traders directly vis-a-vis their customers.

**3. Transfers of empty packaging (new or used, after the "first transfer") between users, other than traders**

In cases of transfers of new or used empty packaging on which the user<sup>5</sup> has already paid the CAC directly to the supplier (of the same empty packaging), the wording "*Amount inclusive of the already paid Conai Environmental Contribution*" must be included on the invoice.

In essence, this wording must be used when the transferor (user) is able to demonstrate that the CAC on that packaging has actually been paid and is quantifiable; in the other cases<sup>6</sup> in which the CAC has been paid but is not quantifiable, the wording should be as follows: "*Amount not inclusive of the already paid Conai Environmental Contribution*". The traditional wording "*Conai Environmental contribution paid*" may continue to be added (not as an alternative therefore) to the wording entered for empty packaging, with exclusive reference to the packaging materials of the same empty packaging transferred.

To avoid complications for companies during the course of the year and allow them to arrange for the subsequent administrative and managerial aspects, the new procedures for all traders of empty packaging (small and otherwise), will **take effect as of 1 January 2019**.

For anything not specifically mentioned in this circular, please refer to the general rules referred to in the Guide which, in the next edition, will also include the changes in question.

For any further information, please write to [infocontributo@conai.org](mailto:infocontributo@conai.org), mentioning the subject, or call the Conai toll-free number 800337799.

*This document is the English translation of a Conai Circular of 29 November 2018. In cases of disputes, the original Italian text shall prevail.*

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<sup>5</sup> This is the user who has purchased empty packaging to fill it and then sells it to other users.

<sup>6</sup> For example, in the case of the purchase of packaged goods and resale of the used packaging of the same goods.