



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.3.2003  
SEC(2003) 297 final

2001/0291 (COD)

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to the second subparagraph of Article 251(2) of the EC Treaty**

**concerning the**

**Common Position of the Council on the Commission proposal for a DIRECTIVE OF  
THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive  
94/62/EC on packaging and packaging waste**

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to the second subparagraph of Article 251(2) of the EC Treaty**

**concerning the**

**Common Position of the Council on the Commission proposal for a DIRECTIVE OF  
THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive  
94/62/EC on packaging and packaging waste**

**1. BACKGROUND**

**Procedure**

- On 7 December 2001 the Commission submitted a proposal for a Directive of the European Parliament and of the Council<sup>1</sup> amending Directive 94/62/EC on packaging and packaging waste<sup>2</sup> for adoption by co-decision procedure as laid down in Article 251 of the EC Treaty.
- The European Economic and Social Committee delivered its Opinion on 29 May 2002.
- The Committee on Industry, External Trade, Research and Energy of the European Parliament voted on its report on 22 May 2002;
- The Committee on the Environment, Public Health and Consumer Policy of the European Parliament voted on its report on 12 July 2002.<sup>3</sup>
- The European Parliament adopted its position on first reading on 3 September 2002.
- The Council adopted its Common Position on 6 March 2003.

**Objective of the Commission proposal**

The Commission proposal of 7 December 2001, which is based on Article 95(1) of the EC Treaty, sets out to amend Directive 94/62/EC. This revision is limited in scope and aims to further increase the recovery and recycling targets for the next five-year phase and thus further reduce the environmental impact of packaging waste. It also introduces material-specific recycling targets for a number of specific packaging waste materials. The proposed targets are based on an extended cost-benefit analysis. The proposed revision also introduces definitions for mechanical, chemical and feedstock recycling and clarifies the definition of 'packaging' though the introduction of a non-binding annex containing interpretation guidelines.

---

<sup>1</sup> COM(2001)729 final (2001/0291 (COD))

<sup>2</sup> OJ L 365/10, 31 December 1994.

<sup>3</sup> A5-0261/2002.

No proposal has been made for revising other aspects of the Directive, such as prevention, reuse or producer responsibility, since the Commission is of the opinion that it is too early to embark on a broader revision of that kind.

## **2. COMMISSION COMMENTS**

### **2.1. General**

At its plenary session of 3 September 2002, the European Parliament adopted 44 amendments, out of the 68 amendments that were tabled. Out of the 68 amendments that were tabled, the Commission accepted 22 either in full, or in part, or in principle. The Council adopted a Common Position on 6 March 2003 by qualified majority.

Out of these, the Council has incorporated 16 amendments either in full, or in part or principle. The Commission supports the Common Position.

### **2.2. Detailed comments**

#### *2.2.1. Amendments accepted by the Commission and incorporated in full or in part in the Common Position*

Amendments 2, 6, 9, 11, 12, 13, 14, 16, 21, 22, 29, 30, 32, 34, 53 and 62 have been incorporated in full or in part in the Common Position.

Amendment **2**, stating that the choice of packaging should be optimised on the basis of a life-cycle approach in order to reduce its negative environmental impact, is reflected in the references to waste prevention and a possible packaging indicator in recital 8 of the Common Position. The Commission can accept this approach.

Amendment **6** underlines that other issues, such as integrated product policy, environmental impact evaluation using life-cycle analysis methods and other proposals regarding recycling and efficient use of resources, require further deliberation and thus fall outside the scope of the current revision. This amendment is reflected in recital 8 which states that other issues should be further examined. This recital is also in line with the proposed re-wording for amendments 16 and 32 and takes into account amendments 2 and 11. The Commission shares the views expressed in the amendment and can accept the approach of the Common Position.

Amendment **9** has been reworded in a new recital 10 of the Common Position: The Commission can support this rewording which better reflects that Directive 94/62/EC relates primarily to the environmental and internal market aspects of packaging and packaging waste. It should be noted that available studies<sup>4</sup> do not support a more affirmative statement. In general, the macroeconomic effects of waste management measures on the labour market are very limited and difficult to quantify.

Amendment **11** calls for a recital on the examination of the practical experiences in Member States. In line with the proposed re-wording for amendments 16 and 32 and taking into account amendments 2 and 6, this amendment is reflected in recital 8 of the Common Position. The Commission can accept this approach.

---

<sup>4</sup> For an overview see: European Commission 2001, Employment effects of waste management policies, available on: <http://europa.eu.int/comm/environment/enveco/studies2.htm#waste>

Amendments **12** and **13** underline the shared responsibility of all operators in the packaging chain to minimise the environmental impact of packaging and packaging waste throughout its life cycle and to improve environmental progress on packaging in accordance with the essential requirements of Annex II of the Directive. Both amendments are similar in content. Therefore, the Common Position only retained amendment 12, which is broader in scope and also covers the content of amendment 13. The amendment is reflected in recital 6 of the Common Position. The Commission can accept this approach.

Amendment **14** underlines the need for harmonised reporting techniques and clear guidelines for data providers. This amendment also corresponds to point 6.6 of the Opinion of the Economic and Social Committee of 29 May 2002. The Common Position rewords this amendment and merges its content with amendment 29 in recital 7. The Commission can accept this approach.

Amendment **16** has been integrated into the Common Position in part. Paragraph 1, which requires producers to take all necessary measures to minimise the environmental impact of new packaging, has not been taken into account. The Commission supports the idea of this part of the amendment in principle but considers that this is closely related to Article 9 and Annex II of the Directive (essential requirements). It might be more appropriate to wait for an evaluation of various elements of the Directive as foreseen in amendment 32 and Article 6(8) of the Directive as amended by the Common Position before deciding on a possible future revision of these elements.

Paragraph 2 of Amendment 16 is close to the existing Art. 4(1) but changes the *obligation* for Member States to adopt other preventive measures into an *option* to do so. This paragraph is not retained in the Common Position. Also, the Commission cannot accept this paragraph, since Member States should be *obliged* to take additional preventive measures in accordance with the current Article 4.

Paragraph 3 of Amendment 16 obliges the Commission to look at further measures to reduce the environmental impact of packaging and packaging waste, and in particular to develop a Packaging Environment Indicator, and to submit its conclusions and a legislative proposal to the European Parliament and the Council by 1 January 2005. The Council included the main elements of this paragraph in Article 6(8) of the Directive as amended by the Common Position. However, in the text of the Common position, the idea of a packaging environment indicator should be first evaluated in a report before taking a final decision on whether or not to apply such an indicator. Furthermore, the deadline for the report is 30 June 2005 instead of 1 January 2005. The Commission acknowledges that further work is needed on options to reduce the environmental impact of packaging. This also includes evaluating the feasibility of a broadly applicable and valid indicator to measure the environmental impact of packaging. However, the Commission considers that this requires further analysis and debate with stakeholders and can accept the approach taken by the Council on this issue. This is also more in line with the Commission's right of initiative.

1. The Common Position does not take into account paragraph 4 of Amendment 16, which states that standards promoted by the Commission must aim to minimise the environmental impact of packaging in accordance with Articles 9 and 10. The Commission can accept the addition of the following sentence at the end of the existing Article 4(2) of the Directive: "The standards shall aim to minimise the environmental impact of packaging in accordance with Articles 9 and 10." This formulation explicitly refers to standards promoted by the Commission. It is, however, considered inappropriate to refer to the implementation of standards. It

should be pointed out that compliance with harmonised CEN standards gives presumption of conformity with the essential requirements of the Directive. However, the standards themselves are not legally binding and producers are free to choose any other way to demonstrate compliance with the essential requirements. Therefore, conformity with standards cannot be enforced.

2. Paragraph 5 of Amendment 16 has not been included in the Common Position. This paragraph obliges the Commission to evaluate the implementation of the CEN standard on prevention and to propose other measures where this standard does not yield results. For the same reasons as explained under paragraph 4, the Commission also rejects this paragraph.

The Common Position takes up the spirit of Amendment **21** by giving more flexibility to Member States in encouraging energy recovery. However, the formulation of the Council is much closer to the original Commission proposal. The Commission can be flexible on this issue and can suggest the following compromise text: “*Member States may encourage energy recovery, where preferable to material recycling for environmental and cost-benefit reasons*”. The reference to the costs and benefits should be maintained to reflect all three pillars of sustainability.

Amendment **22** refers to the use of economic instruments and reviewing and eliminating regulations presenting a barrier to the use of recycled materials. The first part of the amendment has been partly integrated into Article 6(4). However, the reference to economic instruments has been replaced by of a general provision on improving market conditions. Member States shall *review* (Common Position) and not necessarily *eliminate* (amendment) existing regulations preventing the use of recycled materials. The Commission can support this approach in principle. The second paragraph stating that the Commission shall review such legislation at Community level has not been retained. This paragraph is also unacceptable to the Commission as it is beyond the scope of this Directive, it affects the Commission’s right of initiative and it is unclear whether and what Community legislation could constitute an undue barrier to the use of recycled material.

Amendment **29**, which calls for data harmonisation to ensure comparability and homogeneity, has been retained in recital 7. This recital also reflects amendment 14. In line with the amendment, the Commission considers that this issue is better addressed under the framework of Decision 97/138/EC and can accept the approach of the Common Position to mention this issue in a recital. An amendment of article 12(3) of the Directive does not seem necessary as the existing article already allows to take the necessary measures via technical adaptation.

Amendment **30**, which adds to the existing Article 13 of the Directive that Member States are also obliged to promote consumer information and awareness campaigns, has been retained in full. The Council has also added a corresponding recital 9. This is acceptable to the Commission.

Amendment **32** obliging the Commission to report to the European Parliament and the Council on the environmental and internal market aspects of the Directive by 30 June 2005 has been integrated in the Common Position as part of a revised Article 6(8) of the Directive. This approach is acceptable to the Commission as it makes sense to address all elements needing a review in one article and in a single report. However, it seems inappropriate to give recommendations on particular sorting and collection systems. This question should be decided on a national and local level. Stakeholder involvement is a general principle and, while the scope of the report is already to a large extent determined by Amendment 32 and

Article 6(8) of the Directive as amended by the Common Position, there is no particular reason why stakeholder involvement should be mentioned specifically in this context.

Amendment **34**, adding a ‘device for measuring dosage which forms part of the container closure’ as an illustrative example of packaging, has been integrated in the annex to the Common Position. This is acceptable to the Commission.

Part of amendment **53** is reflected in the new paragraph 6(2) of the Directive as amended by the Common Position. This amendment proposes to insert a new recital stating that recycling operations in non-OECD countries are not equivalent from an environmental perspective to European installations. This may be true in certain cases, but a generalisation should not be made unless it is supported by evidence. The amendment also calls for the amount of packaging waste exported for recycling to non-OECD countries to be monitored, along with the way it is handled. Neither the Community nor the individual Member States have the authority or means to control recycling installations outside EU borders. The same issue was also part of the debate in the conciliation committee on the Directive on Waste Electrical and Electronic Equipment (WEEE) and there are no reasons to deal with this issue differently in the context of the Packaging Directive. The Common Position has introduced a new paragraph 2 into Article 6 of the Directive which states that exported packaging waste shall only count for the Community targets if there is sound evidence that the recovery and/or recycling operation took place under conditions that are broadly equivalent to the ones prescribed by Community legislation. This is consistent with the WEEE Directive and acceptable to the Commission.

Part of amendment **62** is reflected in the new paragraph 6(2) of the Directive as proposed by the Common Position. This amendment prohibits exports of packaging waste to third countries from being counted for the purposes of achieving the targets. In its current wording, this is not acceptable to the Commission. Recycling markets are often international and the Commission sees no reason why recycling in non-EU countries should not count if it fulfils the requirements of the Directive. A general ban on exports to count for Community targets might exclude non-EU countries from this market and might therefore be inconsistent with other obligations under Community and international law. However, in line with the reasoning given under amendment 53, the formulation of the paragraph 6(2) of the Directive as amended by the Common Position is acceptable to the Commission.

#### *2.2.2. Amendments accepted by the Commission in full or in part but not incorporated in the Common Position*

Amendments 20, 25, 33, 37, 39 and 45 have been accepted by the Commission in full or in part but have not been incorporated in the Common Position.

The Commission can in principle accept Amendment **20**, which allows Member States to set targets for other packaging materials than glass, paper and board, metals and plastics. The Commission is of the opinion that the recycling or recovery of other packaging materials, such as wood, textiles and composites, can help to reduce the overall environmental impact of packaging. The Commission has not included material-specific targets for these packaging materials in its initial proposal of 7 December 2001 because it was felt further analysis of those materials was needed. Moreover, under the current Directive Member States are already free to adopt other material-specific targets than those specifically mentioned in the Directive.

The Commission can in principle accept Amendment **25**, which obliges Member States to ensure that the national return, collection and recovery systems introduced by Article 7 of the

Directive reflect the economic and environmental costs and benefits of the recovery and recycling of packaging materials. However, the costs and benefits of recycling and recovery are related to the nature of recycling and recovery operations undertaken and the amounts of packaging waste treated rather than the way such systems are set up. As Article 7 is concerned mainly with the organisational structure of such systems, the Commission considers that the amendment fits in better with Article 6.

Amendment **33** provides a new illustrative example to specify that ‘wrapping and gift-wrapping paper sold as a separate product’ should not be considered as packaging. The Commission considers this to be a useful point and can therefore in principle accept this amendment. As the structure of the annex has been modified in the Common Position, the item would fit as an example for non-packaging under the illustrative examples for criterion 2. Should there be no consensus on the placing of this item, the Commission considers that this issue could also be addressed via technical adaptation as foreseen in Article 1(5) of the Common Position.

Amendment **37** adds ‘promotional CD cases and promotional video cases’ to the list of illustrative examples of packaging. The Commission considers this to be a useful point. However, the Commission is of the opinion that the text of the amendment could be simplified to ‘*promotional CD and video cases*’. As the structure of the annex has been modified in the Common Position, the item would fit as an example for packaging under the illustrative examples for criterion 1. Should there be no consensus on the placing of this item, the Commission considers that this issue could also be addressed via technical adaptation as foreseen in Article 1(5) of the Common Position.

The Commission can in principle accept Amendment **39**, which adds ‘commercial durable CD cases and commercial durable video cases’ to the list of illustrative examples of non-packaging. The Commission considers this to be a useful point, but prefers to simplify the amendment to ‘*durable CD and video cases*’. As the structure of the annex has been modified in the Common Position, the item would fit as an example for non-packaging under the illustrative examples for criterion 1. Should there be no consensus on the placing of this item, the Commission considers that this issue could also be addressed via technical adaptation as foreseen in Article 1(5) of the Common Position.

The Commission can accept Amendment **45**, which introduces 31 December 2006 as the deadline for achieving the revised targets. The Commission can accept a limited postponement of this deadline.

### 2.2.3. *Amendments not accepted by the Commission and not incorporated in the Common Position*

Amendment **1** proposes to emphasise the need for further study of the principles set out in the in the Sixth Environmental Action Programme<sup>5</sup> and the Green Paper on Integrated Product Policy as well as the need to draw up thematic strategies on recycling and sustainable use of natural resources. The Commission considers that as Amendment 1 stands it does not tie in with the current revision and cannot therefore be accepted.

Amendment **3**, which proposes deleting the recital introducing material-specific targets, cannot be accepted. As set out in its initial proposal of 7 December 2001, the Commission has

---

<sup>5</sup> COM(2001)31 final.

several reasons for supporting the introduction of material-specific targets. First of all, there are differences in the costs and benefits of recycling between the various materials. Recycling should be performed where it can achieve the maximum benefit from both an environmental and an economic point of view. Moreover, there is no competition between materials such as recycled paper and recycled glass. On the other hand, there is a lot of competition between materials such as recycled glass from different Member States. Therefore, differentiated material-specific targets do not distort competition. On the contrary, they create a level playing field in the internal market. Finally, differentiated material-specific targets create investment security in that they allow companies engaged in collection, sorting and recycling to plan ahead. It should also be noted that this amendment is inconsistent with the rest of the European Parliament's first reading, which supports the material-specific targets as introduced by Article 6(1)(c) of the Commission proposal of 7 December 2001.

Amendments **4**, **7**, and **8**, requesting the Commission to review or recast existing Community legislation and introduce new Community legislation cannot be accepted, since the Commission considers that those amendments do not fall within the scope of the current revision and affect the Commission's right of initiative.

Amendment **5**, requiring the Commission to take action against those Member States which have not implemented the essential requirements cannot be accepted, as all Member States have transposed the essential requirements in their legislation. Cases of non-compliance and/or lack of enforcement by Member States can be filed as a complaint at any time. Therefore, the Commission considers this amendment to be unnecessary.

Amendment **10** proposes to include recycling in a recital on the possibility for Member States to encourage reuse. It follows from Article 6 of the current Directive that Member States are *obliged* to encourage recycling. Therefore, it would be inconsistent with this Article to add in a recital that Member States *may* encourage recycling systems. For these reasons, the Commission cannot accept this amendment.

Amendments **19** and **49** cannot be accepted. These amendments increase the minimum recycling target from the proposed 55% to 65% and delete the proposed maximum recycling target of 70%. The targets proposed by the Commission in its initial proposal of 7 December 2001 were based, among other things, on a cost-benefit analysis conducted by an independent consultant.<sup>6</sup> This analysis concluded that the optimum overall recycling rate is between 50% and 68%. Therefore, the Commission considers a minimum recycling target of 65% to be too high. Also, the Commission has doubts as to whether all Member States will be able to achieve a minimum recycling rate of 65%. The Commission considers that a maximum recycling target is needed in order to balance the collection and recycling of packaging waste between the Member States and to avoid internal market problems. High recycling rates are often accompanied by a high degree of financing through, for example, licence fees, resulting in lower prices for secondary materials. Where in another country the level of ambition is lower and less financing is provided, domestically collected secondary materials will be more expensive than imported material. If, in addition, recycling capacities are limited, it may be difficult for those countries with low ambitions to find a market for their own collected material. Finally, at its plenary session of 3 September 2002, the European Parliament did not adopt any amendments on the proposed recovery target. Therefore, the minimum recycling

---

<sup>6</sup> Draft final report of the study "Evaluation of Costs and Benefits for the Achievement of Reuse and the Recycling Targets for the different Packaging Materials in the Frame of the Packaging and Packaging Waste Directive 94/62/EC", RDC/Pira 2001.



target would be set at 65%, whereas the minimum recovery target would remain at 60% and the maximum recovery target at 75%. This would be inconsistent and might not leave enough room for Member States to set their own targets for recycling and recovery.

Amendment **23** refers to Member States' reports on the destination and quantity of exported packaging waste (introduced by amendment 54). These reports should be taken into account in the next revision of the targets. This requirement was not retained in the Common position. Therefore, this reference is out of context.

Amendment **26** obliges Member States to enforce the essential requirements of Article 9 and Annex II of the Directive. Under Community law<sup>7</sup> Member States have the general obligation to ensure due enforcement of *all* Community legislation transposed into their national laws and highlighting particular provisions would create confusion. Therefore, the Commission cannot accept this amendment.

Amendment **31** establishes that interested parties will have access to detailed opinions and critical observations sent by the Commission or any other Member States to the Member State concerned. The Commission takes the view that this does not come within the scope of this Directive, since it is covered by other Community legislation, such as Regulation (EC) No 1049/2001 of 30 May 2001.<sup>8</sup>

The Commission could in principle accept Amendment **35**, which clarifies the meaning of the word 'inseparable' in a footnote. However, the criteria of the annex have been modified and integrated into article 1(1) of the Common Position. As the word "inseparable" has disappeared in the text of the Common Position, it is no more necessary to clarify its meaning.

Amendment **36** adds 'containers for ink where the ink is to be transferred to another container before use' to the list of illustrative examples of packaging. The Commission could in principle accept this amendment. However, this item is a mirror entry to "ink cartridges". This item was part of the Commission proposal but has been deleted in the Common Position. The Commission considers that either both or none of these items should be retained. In case there is no agreement on this issue, it might be better to address this issue via technical adaptation as foreseen in Article 1(5) of the Common Position.

Amendment **38** illustrates that flowerpots cannot be considered as packaging unless they are added to the plant immediately prior to and for the purposes of sale. The Commission prefers the formulation of its initial proposal of 7 December 2001, which states that flower pots intended to stay with the plant throughout its life are not considered to be packaging. The Commission considers this formulation to be more practical and easier to apply. Therefore, the Commission cannot accept this amendment.

Amendment **40** adds 'release paper of self-adhesive labels' to the list of illustrative examples of non-packaging. The Commission has some doubt as to whether such release paper would be used for the handling, delivery and presentation of goods (in this case the labels) within the meaning of Article 3(1) of the Directive and therefore comply with the definition of packaging. This issue might be better addressed within the framework of technical adaptation of the Directive. The Commission cannot therefore accept this amendment.

---

<sup>7</sup> See, for example, Article 10 of the EC Treaty.

<sup>8</sup> OJ L 145/43, 31 May 2001.

Amendments **41** and **42rev** are designed to exclude packaging materials from the scope of the Directive (i) which cannot be thermally utilised owing to their material quality, (ii) which are inert, (iii) which do not exceed 0.1% of the proven quantity of packaging in the Community and (iv) for which material or raw material recycling is ruled out for ecological and cost-benefit reasons. The Commission considers these amendments to be unnecessary since neither the current Directive nor its revision require such packaging materials to be recovered or recycled. Furthermore, the Commission sees no reason why such packaging should be excluded from the other obligations of the Directive. Therefore, the Commission cannot accept these amendments.

Amendment **43** extends the definition of ‘mechanical recycling’ to chemical recycling where the synthesis of materials produces plastics of the same quality as the new material. The Commission considers chemical recycling to be a different process from mechanical recycling with different technical, environmental and economic characteristics. Therefore, mixing the two processes could undermine the clarity of definitions. This does not, however, have any bearing on whether a common or separate target should be set for these two processes. The Common Position has deleted all three definitions of mechanical, chemical and feedstock recycling. All plastics material that is recycled back into plastics is counted for the purpose of the plastics target. Therefore, the Commission considers that there is neither a justification nor a need for a change in this definition.

For the same reasons as it gave for not accepting Amendment 10, the Commission cannot accept Amendment **44**, which grants Member States the possibility of encouraging both reuse and recycling. It follows from Article 6 of the current Directive that Member States are *obliged* to encourage recycling. Therefore, it would be inconsistent with this Article to add a recital to the effect that Member States *may* encourage recycling systems.

Amendment **47** adds ‘tubes and cylinders around which flexible material is wound’ to the list of illustrative examples of non-packaging. The Commission has some doubt as to whether such tubes would be used for the handling, delivery and presentation of goods within the meaning of Article 3(1) of the Directive and therefore comply with the definition of packaging. This issue might be better addressed within the framework of technical adaptation of the Directive. The Commission cannot therefore accept this amendment.

Amendment **54** requires Member States to report to the Commission on an annual basis on the destination and quantity of packaging waste exported out of the EU for recycling. The Commission shares the view of the Council that this issue should rather be addressed under the framework of Decision 97/138/EC. A reference to this issue was, however, retained in recital 7 of the Common Position. This recital also incorporates amendments 14 and 29. This approach is acceptable to the Commission.

#### *2.2.4. New provisions introduced by the Council*

Recital 2 has been modified to reflect the deletion of the definitions of mechanical, chemical and feedstock recycling in Article 1(1b) of the Commission proposal. The modified recital also underlines the need to encourage the development of new recycling processes. This is acceptable to the Commission.

In recital 3, the Council changed the reference that recycling targets should be “*introduced on the basis of*” life cycle assessments and cost-benefit analysis to that they should “*take account*” of these techniques. This is acceptable to the Commission.

Recital 6 of the Commission proposal referring to special attention to be paid to the specific situation in the accession countries has been deleted by the Council. This is in principle acceptable to the Commission. However, the specific situation of the accession countries should be taken into account during the negotiations with these countries on the implementation of this proposal in the accession countries.

In recital 11 of the Common Position on the principles of subsidiarity and proportionality, a phrase underlining the need to take into account individual circumstances of each Member State has been added. This is acceptable to the Commission.

In article 1(1) of the Common Position, the criteria on the interpretation of the packaging definition have been reworded and moved from the annex to the body of the Directive. In this way, these criteria have been made legally binding (as opposed to their non-binding nature in the Commission proposal). This is acceptable to the Commission.

Article 1(1b) of the Commission proposal introducing new definitions of mechanical, chemical and feedstock recycling has been deleted. Although originally part of its proposal, the Commission can support this deletion as the debate showed that chemical recycling is only at the early stages of its development and it would be premature to give definitions or set specific conditions for this type of recycling. As these processes are not specific to packaging but apply also to non-packaging materials, it might also be preferable to address these definitions in a more general framework such as the foreseen Thematic Strategy on Recycling and the Waste Framework Directive 75/442/EEC.

In article 1(2) of the Common Position, the following adjustments on Article 6 of the Directive have been made:

- in article 6(1a and c), the targets applicable for 2001 have been re-stated. This is intended to give legal clarity that these targets continue to apply.
- In article 6(1b, d, and e), the deadline for implementation has been postponed to 31 December 2008.
- In article 6(1b), the maximum recovery target has been removed.
- In article 6(1d), the maximum recycling target has been increased by 10% to 80%.
- In article 6(1e), the target for paper and board has been increased by 5% to 60%. The target for plastics has been restricted to material recycled back into plastics and increased by 2.5% to 22.5%. A 15% target for wood has been added.
- In article 6(5), the deadlines have been aligned to the changes in article 6(1).
- In article 6(7), the targets for Greece, Ireland and Portugal for 2001 and 2005 have been re-stated. The deadline for the achievement of the new targets has been postponed from June 2009 to December 2012.

Concerning these changes, the Commission can accept a slight increase of the recycling targets as long as these changes are in line with the results of the cost-benefit analysis and the considerations given in the explanatory memorandum to the Commission proposal. The removal of the maximum recovery target is acceptable as there are normally no capacity

shortages for recovery and therefore the absence of a maximum recovery target should not lead to distortions of the Internal Market. The Commission can also accept a limited postponement of the deadlines.

In article 1(3), the change in wording is supposed to underline that the voluntary nature of the identification system of Commission Decision 97/129/EC shall not be changed. This is acceptable to the Commission.

Article 1(6) has been slightly changed to adapt the text to the new comitology rules. This is acceptable to the Commission.

In the annex, the criteria on the interpretation of the packaging directive have been re-worded and integrated into Art. 1(1) of the Common Position. The examples have been retained in the annex and adapted to the new structure and wording of the criteria in Art. 1(1). Several examples have been removed as there was no full agreement in Council. This is acceptable to the Commission. Detailed technical discussions on these items could be better dealt with in the framework of technical adaptation.

### **3. CONCLUSION**

The Council adopted a Common Position on 6 March 2003 by qualified majority. The Commission supports the Common Position. In particular, the Commission welcomes the limitation of this revision to the recovery and recycling targets and the refinement of the definition of packaging. Other issues should be first studied and discussed with stakeholders before further steps are taken.