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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a European Parliament and
Council directive amending Directive 94/62/EC on packaging and packaging
waste
(14843/1/2002 – C5-0082/2003 – 2001/0291(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Dorette Corbey

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

At the sitting of 3 September 2002 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive amending Directive 94/62/EC on packaging and packaging waste (COM(2001) 729 – 2001/0291 (COD)).

At the sitting of 13 March 2003 the President of Parliament announced that the common position had been received and referred to the Committee on the Environment, Public Health and Consumer Policy (14843/1/2002 – C5-0082/2003).

The committee had appointed Dorette Corbey rapporteur at its meeting of 22 January 2002.

It considered the common position and draft recommendation for second reading at its meetings of 22 April 2003 and 22 May 2003.

At the last meeting it adopted the draft legislative resolution by 40 votes to 12, with 1 abstention.

The following were present for the vote: Caroline F. Jackson, chairman; Guido Sacconi, vice-chairman; Dorette Corbey, rapporteur; María del Pilar Ayuso González, Hans Blokland, David Robert Bowe, Philip Bushill-Matthews (for John Bowis), Giles Bryan Chichester (for Martin Callanan), Raffaele Costa, Chris Davies, Avril Doyle, Jillian Evans (for Hiltrud Breyer), Anne Ferreira, Christos Folias (for Marialiese Flemming), Pernille Frahm, Cristina García-Orcoyen Tormo, Alfred Gomolka (for Karl-Heinz Florenz), Françoise Grossetête, Roger Helmer (for Robert Goodwill), Marie-Thérèse Hermange (for Cristina Gutiérrez Cortines), Dieter-Lebrecht Koch (for Christa Kläß), Eija-Riitta Anneli Korhola, Bernd Lange, Paul A.A.J.G. Lannoye (for Marie Anne Isler Béguin), Peter Liese, Giorgio Lisi, Torben Lund, Patricia McKenna, Erik Meijer (for Laura González Álvarez), Peter Michael Mombaur (for Jorge Moreira da Silva), Eluned Morgan (for Minerva Melpomeni Malliori), Rosemarie Müller, Riitta Myller, Karl Erik Olsson (for Jules Maaten), Ria G.H.C. Oomen-Ruijten, Paolo Pastorelli (for Emilia Franziska Müller), Béatrice Patrie, Marit Paulsen, Frédérique Ries, Dagmar Roth-Behrendt, Yvonne Sandberg-Fries, Karin Scheele, Ursula Schleicher (for Giuseppe Nisticò), Inger Schörling, Renate Sommer (for Horst Schnellhardt), Bart Staes (for Alexander de Roo), Dirk Sterckx (for Astrid Thors), Catherine Stihler, Nicole Thomas-Mauro, Kathleen Van Brempt, Michiel van Hulten (for Elena Valenciano Martínez-Orozco), Phillip Whitehead and Rainer Wieland (for Peder Wachtmeister).

The recommendation for second reading was tabled on 23 May 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting a European Parliament and Council directive amending Directive 94/62/EC on packaging and packaging waste (14843/1/2002 – C5-0082/2003 – 2001/0291(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (14843/1/2002 – C5-0082/2003),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2001) 729²),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5-0200/2003),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ P5_TAPROV(2002)0390).

² OJ C 103, 7.12.2001, p. 17.

Amendment 1

Recital 2

(2) The definition of "packaging" laid down in Directive 94/62/EC should be further clarified through the introduction of certain criteria and an annex containing illustrative examples. It is necessary, in order to achieve the ambitious recycling targets, to encourage the development of innovative and viable recycling processes, **as for instance the chemical recycling of plastics.**

(2) The definition of "packaging" laid down in Directive 94/62/EC should be further clarified through the introduction of certain criteria and an annex containing illustrative examples. It is necessary, in order to achieve the ambitious recycling targets, to encourage the development of innovative, **environmentally sound** and viable recycling processes.

Justification

Recycling processes, the development of which is to be encouraged, should not only be innovative and viable, but also environmentally sound.

Chemical recycling of plastics is fraught with problems and should therefore not be referred to as an example of "innovative and viable recycling processes".

Amendment 2

Recital 6

(6) The management of packaging and packaging waste requires the Member States to set up return, collection and recovery systems. Such systems should be open to the participation of all interested parties and be designed to avoid discrimination against imported products and barriers to trade or distortions of competition and to guarantee the maximum possible return of packaging and packaging waste, in accordance with the Treaty. The operators in the packaging chain as a whole should shoulder their shared responsibility to ensure that the environmental impact of packaging and packaging waste throughout its life cycle is reduced as far as possible.

(6) The management of packaging and packaging waste requires the Member States to set up return, collection and recovery systems; whereas such systems should be open to the participation of all interested parties and be designed to avoid discrimination against imported products and barriers to trade or distortions of competition on the market **as a result of the impact of fees based only on weight criteria, which ignore the environmental qualities of each material**, and to guarantee the maximum possible return of packaging and packaging waste, in accordance with the Treaty. The operators in the packaging chain as a whole should shoulder their shared responsibility to ensure that the environmental impact of packaging and

packaging waste throughout its life cycle is minimised as much as possible.

Justification

The amendment aims at clarifying amendment 8 on new point (e a). It is now necessary in the new context of Article 6.

It relates to a part of text that did not exist in the 1st reading.

Amendment 3

Recital 7

(7) Community-wide data on packaging and packaging waste, including on waste exported for recycling and recovery outside the Community, are needed in order to monitor the implementation of the objectives of this Directive. This requires a harmonised reporting technique and clear guidelines for data providers.

(7) **Annual** Community-wide data on packaging and packaging waste, including on waste exported for recycling and recovery outside the Community, are needed in order to monitor the implementation of the objectives of this Directive. This requires a harmonised reporting technique and clear guidelines for data providers.

Justification

Partial reinstatement of amendment 54 adopted at first reading.

Given the short life span of packaging material, the continuous increase of the use of packaging and the subsequent generation of packaging waste, data should be available at least bi-annually.

Amendment 4

ARTICLE 1, NUMBER -1 (new)

Article 2, paragraph 1 a (new) (Directive 94/62/EC)

-1. In Article 2, the following paragraph is added:

"1a. Packaging materials which cannot be utilised for energy recovery owing to their material quality, which are inert and the quantities of which do not exceed 0.1% of the proven quantity of packaging in the Community, and for which material or raw material recycling is ruled out for

ecological and cost-benefit reasons, are not subject to the scope of this Directive."

Justification

Packaging materials in small quantities, which are subject to a very low market penetration in the Member States and which neither have a recycling value nor a value for energy recovery should be excluded from the Directive.

Amendment 5

ARTICLE 1, POINT 1

Article 3, point 1 (Directive 94/62/EC)

1) the following subparagraph shall be added to point (1) of Article 3:
"The definition of "packaging" shall be further based on the criteria set out below. The items listed in Annex I are illustrative examples of the application of these criteria.

- (i) Items shall be considered to be packaging if they fulfil the definition above without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product ***and all elements are intended to be consumed or disposed of together.***
- (ii) Items designed and intended to be filled at the point of sale and "disposable" items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function.
- (iii) Packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements directly hung or attached to a product

1)the following subparagraph shall be added to point (1) of Article 3:
"The definition of "packaging" shall be further based on the criteria set out below. The items listed in Annex I are illustrative examples of the application of these criteria.

- (i) Items shall be considered to be packaging if they fulfil the definition above without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a ***durable product that is necessary to contain, support or preserve that product and has a continuous physical relationship to repeatedly protect the product between uses, even if it may be separated as needed for the use of the product.***
- (ii) Items designed and intended to be filled at the point of sale and "disposable" items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function.
- (iii) Packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements directly hung or attached to a product

and which perform a packaging function shall be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together."

and which perform a packaging function shall be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together.

The Commission shall as soon as practicable, in accordance with the procedure laid down in Article 21, examine and, where necessary, review the illustrative examples on the definition of packaging referred to in Annex I."

Justification

To avoid the current situation where there are great differences of interpretation between Member States, this amendment provides greater legal certainty in clarifying the distinction between packaging and non-packaging. A more comprehensive definition of packaging is needed in order to provide the Commission with concrete guidelines to carry out a review of the illustrative examples in Annex. In order to prevent technical discussions on the illustrative examples in the Annex, the Commission is requested to examine them as a matter of urgency.

Re-introduction of EP first reading amendment 35 in a modified form that takes into account the outcome of Council's deliberations.

Amendment 6

ARTICLE 1, POINT 1 A (new)

Article 3, paragraph 9 a (new) (Directive 94/62/EC)

In Article 3 the following points 9a is inserted:

“9a. ‘mechanical recycling’ shall mean the reprocessing of waste material, for the original purpose or for other purposes excluding energy recovery or disposal, without changing the chemical structure of the processed material;

Justification

The proposed amendment extends the definition of mechanical recycling taking account of

state of the art technology; this will ensure that mixed and unmixed plastics will be recycled in such a way that they retain the same chemical structure; this processing technique is both environmentally friendly and economic.

Amendment 7

ARTICLE 1, POINT 1 A (new)

Article 4 (Directive 94/62/EC)

1a. Article 4 is replaced by the following:

"Article 4

Prevention

1. Member States shall ensure that, in addition to the measures to prevent the formation of packaging waste taken in accordance with Article 9, from 1 January 2004 new packaging is only put on the market if the producer has taken all necessary measures to minimise its environmental impact as far as possible without compromising the essential functions of the packaging. This applies to new packaging for both new and existing products.

2. Member States shall also ensure that other preventive measures are implemented. Such other measures may consist of national programmes, projects to introduce producer responsibility to minimise the environmental impact of packaging or similar actions adopted, if appropriate in consultation with economic operators, and designed to collect and take advantage of the many initiatives taken within Member States as regards prevention. They shall comply with the objectives of this Directive as defined in Article 1 (1).

3. The Commission shall help to promote prevention by encouraging the development of suitable European standards, in accordance with Article 10. The standards shall aim to minimise the environmental impact of packaging in accordance with Articles 9 and 10. The Commission shall

ensure the proper enforcement of the essential requirements.

Justification

Reinstatement of amendment 16 adopted in first reading.

The wording in paragraph 1 was the result of a compromise in first reading. It is supported in principle by the Commission. It is important to ensure that the necessary measures to minimise the environmental impact of packaging are taken as soon as possible, in particular for new packaging.

Amendment 8
ARTICLE 1, POINT 2
Article 6, paragraph 1(Directive 94/62/EC)

Article 6 shall be replaced by the following:

"Article 6

Recovery and recycling

1. In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered;
- (b) no later than **31 December 2008** 60% as a minimum by weight of packaging waste will be recovered;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than **31 December 2008** **between 55% as a minimum and 80% as a maximum** by weight of packaging waste will be recycled;

Article 6 shall be replaced by the following:

"Article 6

Recovery and recycling

1. In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered;
- (b) no later than **31 December 2006** 60% as a minimum by weight of packaging waste will be recovered;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than **31 December 2006** 55% as a minimum by weight of packaging waste will be recycled;

(e) no later than **31 December 2008** the following minimum recycling targets for materials contained in packaging waste will be attained:

- (i) 60% by weight for glass;
- (ii) 60% by weight for paper and board;
- (iii) 50% by weight for metals;
- (iv) 22,5% by weight for plastics, counting exclusively material that is recycled back into plastics;
- (v) 15% by weight for wood.

(e) no later than **31 December 2006** the following minimum recycling targets for materials contained in packaging waste will be attained:

- (i) 60% by weight for glass;
- (ii) 60% by weight for paper and board;
- (iii) 50% by weight for metals;
- (iv) 22,5% by weight for plastics, counting exclusively material that is recycled back into plastics **and organic recycling of biodegradable plastics**;
- (v) 15% by weight for wood.

(e a) Member States shall ensure that their material-specific targets to fulfil the overall target mentioned under (d) and the way in which national waste management systems operate reflect the environmental costs and benefits of the recovery and recycling of packaging materials.

(e b) Member States may set targets for other materials provided that they take account of the marketed volume of those packaging materials, their market penetration and the implications for small and medium-sized producers of packaging material.

Justification

1. Introduction of an amended version of the EP's position in first reading concerning the targets with the aim of reaching an agreement with the Council. The committee proposes to maintain the overall minimum recycling target of the common position, but to delete the maximum targets and to bring forward the timeframe.

2. As the Council has changed the wording of paragraph (e) the committee proposes to clarify that recycling of biodegradable plastics by composting may be counted towards achieving the plastics recycling target. This is an incentive for Member States to encourage the use of biodegradable plastics.

3. The committee re-introduces amendment 25 from first reading in a modified form taking up the suggestion made by the Commission. It is to stress that Member States shall ensure that their systems reflect the differing environmental costs and benefits. They shall avoid distortions of competition in particular the impact on relative prices through the fees linked to

these systems. Distortions of competition will arise if fees are only based on weight. Fees should therefore reflect environmental qualities of each material.

Member States should be allowed to set targets for other materials.

Amendment 9

ARTICLE 1, POINT 2

Article 6, paragraph 2 (Directive 94/62/EC)

2. Packaging waste exported out of the Community in accordance with Council Regulation (EEC) No 259/93 *, Council Regulation (EC) No 1420/1999 ** and Commission Regulation (EC) No 1547/1999 *** shall only count for the achievement of the obligations and targets of paragraph 1 if ***there is sound*** evidence that the recovery and/or recycling operation took place under conditions that are ***broadly*** equivalent to those prescribed by the Community legislation on the matter.

2. Packaging waste exported out of the Community in accordance with Council Regulation (EEC) No 259/93 *, Council Regulation (EC) No 1420/1999 ** and Commission Regulation (EC) No 1547/1999 *** shall only count for the achievement of the obligations and targets of paragraph 1 if ***the exporter provides*** evidence that the recovery and/or recycling operation took place under conditions that are equivalent to those prescribed by the Community legislation on the matter.

Justification

The Parliament took a strong position on the issue of export of packaging waste. The committee proposes to strengthen the common position on this important issue.

This amendment would bring the text into line with the agreement reached between EP and Council at the WEEE conciliation.

Amendment 10

ARTICLE 1, POINT 2

Article 6, paragraph 3 (Directive 94/62/EC)

3. Member States ***shall, where appropriate,*** encourage energy recovery, where it is preferable to material recycling for environmental ***and cost-benefit*** reasons. ***This could be done by considering a sufficient margin between national recycling and recovery targets.***

3. Member States ***may*** encourage energy recovery, where it is ***shown to be*** preferable to material recycling for environmental reasons.

Justification

Reinstatement of amendment 21 from first reading.

The text in the Common position puts the existing hierarchy in the Community strategy for Waste Management on its head. It reverses the current principle that material recycling is in general preferable to energy recovery. This clause amounts to a legally binding instruction to Member States to promote incineration which is unacceptable. Such encouragement, if at all appropriate, should be optional. And the conditions for such action should be clear. However, the wording given is very vague. To avoid unclarity, and to take account of differences from case to case, it needs to be shown whether it is preferable or not. Cost-benefit reasons are not adequate in this context, as many of the external costs of incineration are not accounted for.

Amendment 11

ARTICLE 1, POINT 2

Article 6, paragraph 5 (Directive 94/62/EC)

5. Not later than **31 December 2007**, the European Parliament and the Council shall, acting by qualified majority and on a proposal from the Commission, fix targets for the third five-year phase 2009 until 2014, based on the practical experience gained in the Member States in pursuit of the targets laid down in paragraph 1 and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

This process shall be repeated every five years.

5. Not later than **31 December 2005**, the European Parliament and the Council shall, acting by qualified majority and on a proposal from the Commission, fix targets for the third five-year phase 2009 until 2014, based on the practical experience gained in the Member States in pursuit of the targets laid down in paragraph 1 and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

This process shall be repeated every five years.

Justification

Reinstatement of the text of the Commission proposal.

Amendment in line with the suggested change to the dates in Article 6, paragraph 1.

Amendment 12

ARTICLE 1, POINT 2

Article 6, paragraph 7, point (c) (Directive 94/62/EC)

(c) postpone the attainment of the targets referred to in paragraphs 1(b), (d) and (e) until the date of their own choice which shall

(c) postpone the attainment of the targets referred to in paragraphs 1(b), (d) and (e) until the date of their own choice which shall

not be later than **31 December 2012**.

not be later than **30 June 2009**.

Justification

Reinstatement of the Commission proposal approved at first reading.

There is no reason, from either the environmental protection or fair competition point of view, that Greece, Ireland and Portugal should be given an extension until 31 December 2012 (6 and a half years longer than the other 12 Member States, compared with the Commission's original proposal).

The Commission proposal, approved by Parliament at first reading, that the three countries should have the option of an extension of the deadline until 30 June 2009 should therefore be reinstated.

Amendment 13

ARTICLE 1, POINT 2

Article 6, paragraph 7 a (new) (Directive 94/62/EC)

The European Parliament and the Council, acting in accordance with the procedure set out in Article 251 EC, shall establish the timeframe by which the acceding countries will have to attain the targets referred to in paragraph 1 (b), (d) and (e).

Justification

In view of the conclusion of accession negotiations with ten countries in December 2002 and of the entry into force of the accession Treaties on 1 May 2004, it is necessary to address the issue of the implementation of this Directive by the new Member States. The deadline for attaining the recovery and recycling targets for the new Member States will have to be dealt with in an appropriate manner at a later stage, preferably with the involvement of the representatives of these Member States and their members in the European Parliament.

Amendment 14

ARTICLE 1, POINT 2

Article 6, paragraph 8 (Directive 94/62/EC)

8. The Commission shall, as soon as possible and no later than 30 June 2005, present a report to the European Parliament and the Council on the progress of the implementation and impact of this Directive on the environment, as well as on the functioning of the internal market. The report shall take into account individual circumstances in each Member State. This report shall cover the following:

- (a) an evaluation of the effectiveness *of the* implementation of the essential requirements;
- (b) additional prevention measures to reduce the impact of packaging as far as possible without compromising its essential functions;
- (c) the possible development of a packaging indicator to render packaging prevention simpler and more effective;
- (d) *possible* packaging waste prevention plans;
- (e) *encouragement of* re-use;

(f) producer responsibility including its financial aspects;

(g) efforts to reduce further and, *if appropriate*, ultimately phase out *heavy metal* in packaging by 2010.

This report shall, as appropriate, be accompanied by proposals for revision of the related provisions of this Directive, unless such proposals have, by that time, been presented.

8. The Commission shall, as soon as possible and no later than 30 June 2005, present a report to the European Parliament and the Council on the progress of the implementation and impact of this Directive on the environment, as well as on the functioning of the internal market. The report shall take into account individual circumstances in each Member State. This report shall cover the following:

- (a) an evaluation of the effectiveness, implementation *and enforcement* of the essential requirements;
- (b) additional prevention measures to reduce the *overall environmental* impact of packaging as far as possible without compromising its essential functions;
- (c) the possible development of a packaging *environment* indicator to render packaging prevention simpler and more effective;
- (d) packaging waste prevention plans;

e) re-use *and, in particular, comparison of ecological benefits of re-use and those of recycling*;

(f) producer responsibility including its financial aspects;

(g) efforts to reduce further and ultimately phase out *hazardous substances* in packaging by 2010.

This report shall, as appropriate, be accompanied by proposals for revision of the related provisions of this Directive, unless such proposals have, by that time, been presented.

Justification

The report should not only be about the effectiveness of implementation of the CEN standards. It should start with the effectiveness of the standards as such, and should also include the effectiveness of enforcement of these standards.

It should be specified that additional measures should seek to reduce the environmental impact of packaging, and this should be done over the whole life cycle to be meaningful.

The requested indicator is meant to address the environmental profile of packaging and should therefore be specified so.

The term "possible" is either redundant or misleading. Obviously, the report would not cover

"impossible" waste prevention plans. It may therefore well be misunderstood as meaning "possibly", which would degrade the top priority of waste policy to an option. However, such packaging waste prevention plans are overdue and should be covered unambiguously.

The specific tools listed as from (a) to (g) are not specific for packaging and are developed in the Thematic Strategy on the prevention and recycling of waste. The report should therefore concentrate on assessing impact on the environment, as well as functioning of the internal market.

Text amends part of the Council common position that did not exist in the 1st reading.

There are not only heavy metal substances in packaging that create problems. All hazardous substances in packaging should be phased out unambiguously.

Amendment 15
ARTICLE 1, POINT 2
Article 6, paragraph 8 a (new) (Directive 94/62/EC)

8bis

The report shall address the issues in point 8 as well as other relevant issues in the framework of the different elements of the 6th Environmental Action Programme, in particular the Thematic Strategy on Recycling and the Thematic Strategy on the Sustainable Use of Resources.

In order to base the report on practical experience, the Commission and the Member States shall encourage the initiation and evaluation of pilot projects concerning points 8 b, c, d, f, and other prevention instruments such as consumer watchdogs and complaints procedures. The participation of all stakeholders shall be ensured.

Justification

The Commission is already working on the development of Thematic Strategies which touch on a number of issues that are closely linked to the issues raised in this revision. It is important to maintain the consistency of the Community's approach and policy.

At first reading Parliament adopted amendment 16. In particular, paragraph 3 was supported

by a large majority. The Common Position only makes a small step towards the Parliament. The committee is of the opinion that the Council's text should be reinforced by introducing a call on the Commission and the Member States to encourage pilot projects. Practical experience gained from new or already existing projects will add value to the report and its uses for future policy.

Packaging prevention can be achieved through consumer pressure on manufacturers via a multi-stakeholder forum, a complaints procedure and the promotion of a code of practice (e.g. Conseil National d'Emballage and the UK Packaging Standards Council which operated from 1992-96).

Amendment 16

ARTICLE 1, POINT 6 A (NEW)

Article 22, paragraph 3 a (new) (Directive 94/62/EC)

3. Provided that the objectives set out in Article 6 of this Directive are achieved, Member States may transpose the provisions set out in Article 7 by means of agreements between the competent authorities and the economic sectors concerned.

Justification

On 17 December 2002 (i.e. after the adoption of first reading), the Commission decided to refer the Netherlands to the Court of Justice concerning the failure of Dutch legislation to formally provide for the setting up of collection, recycling and recovery schemes. Interestingly enough, the Netherlands is one of the Member States that has attained the targets in the directive by a large margin. In order to clarify the freedom of choice for the Member States on how to achieve the targets in the directive, the committee proposes to introduce a paragraph on the same lines of the one that has been introduced by the WEEE Directive in Article 17.

Amendment 17

ANNEX

Annex I (Directive 94/62/EC)

Packaging:

Packaging:

PE 328.774

18/22

RR\328774EN.doc

Sweets boxes

Sweets boxes

Film overwrap around a CD case

Film overwrap around a CD case

CD and Video cases for short term use

Non packaging:

Non packaging:

Flower pots ***intended to stay with the plant throughout its life***

Flower pots ***unless they are added immediately prior to and for the purposes of sale***

Tool boxes

Tool boxes

Tea bags

Tea bags

Wax layers around cheese

Wax layers around cheese

Sausage skins

Sausage skins

Tubes and cylinders around which flexible material is wound

Release paper of self-adhesive labels

Wrapping and gift wrapping paper sold as a separate product

Justification

Retabling of a modified amendment 15 from first reading. The intention is to distinguish between those CD and video cases intended as lifelong protection of the product and those designed for advertising purposes with a temporary application.

Retabling of amendment 38 which was adopted at 1st reading. The main design features of a pot are specifically related to production and this considerably outweighs any packaging function. Virtually no pot will remain with a plant from the point of sale onwards, nearly all plants will be re-potted at some point during their life. In addition to this, it is not possible for the growers to know what destination the plant will have. In the light of this most Member States have interpreted the present directive to mean that the majority of plant pots are not packaging. The description of flower pots in the amendment above reflects this interpretation of the packaging directive.

Additional illustrative example to provide further clarification for Article 3(1) subparagraph i; reinstates EP 1st reading amendment.

EXPLANATORY STATEMENT

Background and general considerations

The revision of the packaging directive comes at a crucial time. Enlargement of the Union is imminent. The European Community's Sixth Environmental Action Programme is entering its implementation phase and the Integrated Product Policy is in preparation. These developments would justify a comprehensive and thorough review. In the interests of legal certainty, however, this proposal should be dealt with rapidly so that the new targets are set as soon as possible. Your rapporteur welcomes the fact that the Council has also recognised that, even in a limited and speedy review it is possible to take some small steps towards setting a new policy direction. In order to ensure the smooth passage of the proposal, your rapporteur intends, on the basis of the outcome of the vote in the Environment Committee, to discuss with the Council how the revision of the Directive can be wound up as speedily as possible.

After in-depth consultations with a large number of stakeholders, your rapporteur has tabled nine amendments. She firmly believes that this package of amendments accurately reflects the position adopted by Parliament at first reading by a large majority (488 votes to 5 with 54 abstentions). The proposed amendments also take account of the Council's common position. Some of these amendments were modified and others were added by the Environment Committee.

A number of aspects are examined briefly below:

1. Ambitious but achievable recycling targets for Member States

These targets should provide adequate incentives for Member States to make the necessary efforts. It is important to avoid a situation in which the level of the targets to be achieved differs too much from one Member State to another, although there is no objection to some degree of flexibility. The Council's common position has watered down the original Commission proposal, which Parliament left virtually unchanged at first reading, by lengthening the deadline by as much as two and a half years. Your rapporteur proposes to go some way towards meeting the Council by setting a deadline of 31 December 2007. The level of the proposed recycling targets is an arithmetical average between Parliament's position and the Council's. However, more importantly, this target - given the proposed deadline - is both ambitious and achievable. In addition, it goes some way towards meeting the views of both the Council and the political groups in Parliament who want to see a maximum target.

Your rapporteur's intention is to ensure that biodegradable plastics count towards what is defined as recycling. On the question of the mandatory recycling of wood - as called for by the Council - the environmental benefits of such a measure have not been substantiated. Your rapporteur has therefore opted to leave the setting of any recycling targets for wood up to the Member States. The committee followed the rapporteur on a number of these issues although not on all of them.

2. Prevention

In both the packaging sector and in Parliament there has been much discussion about the prevention policy that should be introduced. In general, there is a wish to see a greater focus on the introduction of essential requirements. The amendments therefore reflect this view. It is clear that encouraging the prevention of packaging waste, as agreed by the Council and Parliament in the Sixth Environmental Action Programme, should be taken further through practical proposals. In this context, indicators need to be developed. A packaging indicator can

be used by packagers and the retail sector to optimise the environmental quality of packaging. The indicator will provide an incentive for ongoing improvements. Your rapporteur is delighted that the Council has recognised the need to take a close look at updating prevention policy. In line with the position at first reading, she calls on the Member States and the Commission to make further efforts in this area, including pilot projects.

3. Exports

It is particularly difficult to establish exactly what quantities of plastics are recycled in third countries under what conditions. Effective monitoring is extremely important in the plastics sector for both social and environmental reasons. The Council has incorporated Parliament's amendments 53 and 62 in its common position. Nonetheless the text still fails to spell out clearly enough who is responsible for proving that the relevant recovery and/or recycling operation has taken place under conditions which are equivalent to the conditions prescribed by Community legislation. This uncertainty should be removed. The rapporteur proposes the compromise agreed for the WEEE Directive.

4. Compliance

Attention needs to be paid to compliance with the packaging directive. The introduction of essential requirements has already been mentioned in paragraph 2. Your rapporteur is insisting on a guarantee that there will be close monitoring of compliance with the agreed targets. We cannot allow a situation in which no action is taken when the targets are not met. Recent developments have created the impression that the Commission is focusing more on compliance with the relevant procedures than achieving the goals. In your rapporteur's view, a degree of flexibility in the procedures can be justified provided that the objectives of the directive are achieved. It is therefore proposed that - in line with WEEE Directive - the Member States should have the option of achieving the targets by means of binding agreements between the authorities responsible and the economic sectors concerned.

5. Internal market

The revised directive should provide an adequate guarantee that the internal market will operate properly. To this end it should be made clear what the relationship is between recycling and re-use and on what grounds Member States may encourage re-use. As no amendments were adopted at first reading seeking to improve the way in which the internal market operates, your rapporteur has had to confine herself to calling on the Commission to clarify this in the next revision of the directive.

6. Enlargement

As pointed out in paragraph 1, it is important that the deadlines by which the targets must be attained should not differ too significantly. It nonetheless has to be recognised that for the new Member States, many of which have not yet started introducing the necessary systems, this will take some time. Your rapporteur therefore calls on the Commission to bring forward a proposal on the basis of which Parliament and the Council can set a deadline or deadlines for the new Member States under the codecision procedure.

7. Definitions

In an effort to avoid a lengthy discussion of technical details, your rapporteur has tabled an amendment leaving such discussions up to experts from the Commission and the Member States. Some amendments from first reading were then added by the committee.

Your rapporteur hopes that the package of amendments proposed will provide the basis for a unanimous position in Parliament at second reading and facilitate a successful and smooth negotiation process with the Council.